

I. EXECUTIVE ORDERS

KBB 07-33 Bond Allocation—Industrial Development Board of the Parish of Jefferson Davis, Louisiana, Inc..... 1
 KBB 07-34 2007 Carry-Forward Bond Allocation—Louisiana Housing Finance Agency 1
 KBB 07-35 2007 Carry-Forward Bond Allocation—Louisiana Public Facilities Authority..... 2
 KBB 07-36 2007 Carry-Forward Bond Allocation—Louisiana Housing Finance Agency 2
 KBB 07-37 2007 Carry-Forward Bond Allocation—Calcasieu Parish Public Trust Authority 3

II. EMERGENCY RULES

Governor

Division of Administration, Racing Commission—Equine Veterinary Practices, Health, and Medication
 (LAC 35:I.Chapters 15-17, III.3709, V.6301, 6353 and LAC 46:XLI.Chapters 1, 3, and 15) 5
 Pick N (LAC 35:XIII.Chapter 116) 12

Health and Hospitals

Office of Public Health—Genetic Diseases—Neonatal Screening (LAC 48:V.6303) 13
 Office of the Secretary, Bureau of Health Services Financing—Disproportionate Share Hospital Payment
 Methodologies—Distinct Part Psychiatric Unit Expansions (LAC 50:V.315) 15
 Federally Qualified Health Centers—Reimbursement Methodology—Payment for Adjunct Services
 (LAC 50:XI.10703)..... 16
 Hospital Services—Inpatient Hospitals Disproportionate Share Hospital Payment Methodologies
 (LAC 50:V.Chapter 25-27) 17
 Inpatient Hospital Services—Non-Rural, Non-State Hospitals—Distinct Part Psychiatric Unit
 Expansions (LAC 50:V.915)..... 22
 Inpatient Hospital Services—Non-Rural, Non-State Hospitals—Supplemental Payments
 (LAC 50:V.901, 953 and 1331) 23
 Medicaid Eligibility—Family Opportunity Act Medicaid Program (LAC 50:III.2303 and 10305) 25
 Medicaid Eligibility—Presumptive Eligibility for Children (LAC 50:III.2527) 26
 Medicaid Eligibility—SSI-Related Resources (LAC 50:III.10717) 27
 Medicaid Eligibility—Spousal Impoverishment—Provisions and Nursing Facility Private-Pay Rate
 (LAC 50:III.16101 and 16103) 28
 Medicaid Eligibility—Transfers of Assets (LAC 50:III.10905) 30
 Nursing Facility Minimum Licensing Standards—Emergency Preparedness (LAC 48:I.9729)..... 32
 Pain Management Clinics—Licensing Standards (LAC 48:I.7801) 35
 Professional Services Program—Adult Immunizations (LAC 50:IX.Chapters 83-87)..... 36
 Professional Services Program—Physicians Services—Payment for Adjunct Services (LAC 50:IX.15121) 37
 Professional Services Program—Physicians Services—Reimbursement Methodology (LAC 50:IX.15103) 37
 Rural Health Clinics—Reimbursement Methodology—Payment for Adjunct Services (LAC 50:XI.16703) 38
 Office of the Secretary, Office of Aging and Adults Services—Home and Community-Based Services
 Waiver—Adult Day Health Care—Direct Service Professionals Wage Enhancement
 (LAC 50:XXI.3109) 39
 Office of the Secretary, Office for Citizens with Developmental Disabilities—Home and Community-Based
 Services Waivers—Supports Waiver—Support Coordination Services
 (LAC 50:XXI.5715, 5901 and 6101)..... 40
 Targeted Case Management—Individuals with Developmental Disabilities
 (LAC 50:XV.10501, 10505 and 11701) 40

Public Safety and Corrections

State Uniform Construction Code Council—State Uniform Construction Code (LAC 55:VI.301) 41
 State Uniform Construction Code (LAC 55:VI.301)..... 42

Revenue

Policy Services Division—Payment of Taxes by Credit or Debit Cards; Other (LAC 61:III.1532) 43
 Tax Commission—Ad Valorem Taxation (LAC 61:V.907, 1103, 2503, 2711 and 3105)..... 45

This public document was published at a total cost of \$2,935.00. Five hundred copies of this public document were published in this monthly printing at a cost of \$2,935. The total cost of all printings of this document including reprints is \$2,935.00. This document was published by Moran Printing, Inc. 5425 Florida Boulevard, Baton Rouge, LA 70806, as a service to the state agencies in keeping them cognizant of the new rules and regulations under the authority of R.S. 49:950-971 and R.S. 981-999. This material was printed in accordance with standards for printing by state agencies established pursuant to R.S. 43:31. Printing of this material was purchased in accordance with the provisions of Title 43 of the Louisiana Revised Statutes.

The Office of the State Register provides auxiliary aids for the *Louisiana Register* for visually impaired individuals. By appointment, oral presentation of the *Register* is available at the Office of the State Register, or an audiocassette tape of requested sections of the *Register* can be provided for the cost incurred by the Office of the State Register in producing such a tape. For more information contact the Office of the State Register.

Social Services	
Office of Family Support—Food Stamp Program (LAC 67:III.1940)	54
TANF Initiatives (LAC 67:III.Chapter 55).....	55
TANF—General Educational Development (GED) Testing Program (LAC 67:III.5595)	60
TANF—Nurse Family Partnership (NFP) Program (LAC 67:III.5593)	61
Wildlife and Fisheries	
Wildlife and Fisheries Commission—2008 Commercial King Mackerel Season	62
2008-09 Reef Fish Commercial Seasons	62
Large Coastal Shark Commercial Season Closure.....	63
III. RULES	
Education	
Board of Elementary and Secondary Education—Bulletin 118—Statewide Assessment Standards and Practices (LAC 28:CXI.303, 305, 312, 315, 701, 1351, and 1355).....	65
Bulletin 1794—State Textbook Adoption Policy and Procedure Manual (LAC 28:XXXIII.301)	64
Environmental Quality	
Office of the Secretary, Legal Affairs Division—Evidentiary Hearings on Hazardous Waster Permit Applications (LAC 33:V.709)(HW101).....	68
Office of the Secretary—Regulation Revisions (LAC 33:I.3931; III.111, 2121, 2125, 2145, 2147, and 2201; V.109, 1113, 1127, 1315, 1319, 1517, 4397, and 4999; IX.2707, 4905, and 6125; and XI.707)(MM005).....	69
Governor	
Motor Vehicle Commission—Advertising (LAC 46:V.Chapter 7)	74
Health and Hospitals	
Office of the Secretary, Bureau of Health Services Financing—Pain Management Clinics—Licensing Standards (LAC 48:I.Chapter 78)	80
Pharmacy Benefits Management Program—Dispensing Fee (LAC 50:XXIX.Chapter 9).....	87
Office of the Secretary, Bureau of Primary Care and Rural Health—Primary Service Areas of Rural Hospitals (LAC 48:I.15901-15903)	89
Insurance	
Office of the Commissioner—Regulation 94—Premium Adjustments for Compliance with Building Codes and Damage Mitigation (LAC 37:XIII.Chapter 127)	90
Public Safety and Corrections	
Office of Management and Finance, State Uniform Construction Code Council—State Uniform Construction Code (LAC 55:VI.101, 301, 703 and 905)	93
Office of State Police—User Fees for Louisiana State Police Facility (LAC 55:I.301).....	94
Social Services	
Office of Family Support—Louisiana Pathways Child Care Career Development System (LAC 67:III.5125 and 5127)	95
Treasury	
Board of Trustees of the Louisiana State Employees' Retirement System—ORP—Election to Participate (LAC 58:I.3505)	97
Rollover of Refunds (LAC 58:I.113)	97
Wildlife and Fisheries	
Wildlife and Fisheries Commission—Removal of Abandoned Crab Traps (LAC 76:VII.367)	97
IV. NOTICES OF INTENT	
Agriculture and Forestry	
Seed Commission—Seeds (LAC 7:XIII.129 and 131)	99
Culture, Recreation and Tourism	
Office of Cultural Development—Cultural Districts (LAC 25:I.Chapter 11).....	100
Education	
Board of Elementary and Secondary Education—Bulletin 111—The Louisiana School, District, and State Accountability System (LAC 28:LXXXIII.703, 3501-3507, and 4310)	104
Bulletin 746—Louisiana Standards for State Certification of School Personnel—Cooperative Education (LAC 28:CXXXI.657).....	106
Environmental Quality	
Office of the Secretary—Additional Supplementary Information for Permit Applications (LAC 33:VII.523) (SW047)	107
Governor	
Division of Administration—Office of Group Benefits—PPO and EPO Plans of Benefits—Ambulance Services (LAC 32:III.301 and V.301).....	108
PPO and EPO Plans of Benefits—Durable Medical Equipment (LAC 32:III.301 and 701, V:301 and 701)	109
PPO and EPO Plans of Benefits—Genetic Testing (LAC 32:III.317 and V.317).....	110
PPO and EPO Plans of Benefits—Medicare (LAC 32:III.315 and V.315)	111

Health and Hospitals

Board of Medical Examiners—Athletic Trainers—Certification and Practice (LAC 46:XLV.3103-3162, and 5703) 113

Board of Optometry Examiners—Optometry Regulations (LAC 46:LI.107 and 503) 115

Emergency Response Network Board—Louisiana Network Emergency Response Board (LAC 48:I.18101, 18301-18305, and 18501-18507) 118

Office of Aging and Adult Services—Home and Community Based Services Waivers—Adult Day Health Care (LAC 50:XXI.Chapters 21-39)..... 120

Office of Public Health, Center for Environmental Health—General Provisions (LAC 51:I.101, 105, 107, 109, 111, 119, and 125) 133

Office of the Secretary—Statewide Human Service Framework (LAC 48:I.Chapter 26)..... 136

Office of the Secretary, Bureau of Health Services Financing—Home Health Services—Extended Nursing Services Reimbursement Rate Increase (LAC 50:XIII.701)..... 144

Hospital Services—Inpatient Hospitals—Disproportionate Share Hospital Payment Methodologies (LAC 50:V.Chapters 25 and 27)..... 145

Minimum Licensing Standards for Adult Day Health Care (LAC 48:I.Chapter 11)..... 151

Medicaid Eligibility—Termination of Presumptive Eligibility for Pregnant Women..... 168

Mental Health Rehabilitation Program—Moratorium on Mental Health Rehabilitation Providers (LAC 50:XV.701)..... 168

Third Party Liability—Provider Billing and Trauma Recovery (LAC 50:I.8345) 169

Office of the Secretary, Office for Citizens with Developmental Disabilities—Home and Community-Based Services Waivers—Direct Support Professionals Wage Enhancement—Support Coordination Services (LAC 50:XXI.5715, 5901, and 6101) 171

Targeted Case Management—Individuals with Developmental Disabilities (LAC 50:XV.10501, 10505 and 11701) 172

Insurance

Office of the Commissioner—Regulation 95—Public Fire Protection Grading Review Board (LAC 37:XIII.Chapter 129) 174

Natural Resources

Office of the Secretary—Certification of Land Conservation Organizations (LAC 43:I.Chapter 41)..... 177

Revenue

Policy Services Division—Payment of Taxes by Credit or Debit Cards; Other (LAC 61:III.1532) 185

Social Services

Office of Community Services—Refugee Resettlement Program (LAC 67:V.Chapter 5)..... 186

Office of Family Support—Child Care Assistance Program—Provider Registration/Certification Requirements and Annual Revision of Sliding Fee Scale (LAC 67:III.5103, 5107 and 5109) 187

TANF—Language Clarifications (LAC 67:III.Chapter 55)..... 189

Wildlife and Fisheries

Wildlife and Fisheries Commission—Emergency Cut-off Switches (LAC 76:XI.111) 195

Flotation Devices (LAC 76:XI.103)..... 196

Gill Net and Grass Carp Prohibitions (LAC 76:VII.112)..... 197

Marine Event Permits (LAC 76:XI.305)..... 198

Vessel Monitoring System Requirements (LAC 76:VII.369, 371 and 515)..... 199

V. GOVERNOR'S REPORTS

Governor's Letter to Chair of House Committee on Health and Welfare

Emergency Rule—Pain Management Clinics Licensing Standards (LAC 48:I.Chapter 78)..... 204

Governor's Letter to Chair of Senate Committee on Health and Welfare

Emergency Rule—Pain Management Clinics Licensing Standards (LAC 48:I.Chapter 78)..... 204

VI. ADMINISTRATIVE CODE UPDATE

Cumulative—January 2007 through December 2007 205

VII. POTPOURRI

Agriculture and Forestry

Horticulture Commission—Landscape Architect Registration Exam..... 208

Governor

Office of the Governor, Division of Administration, Office of Group Benefits—Public Hearing Substantive Change, PPO Plan of Benefits—Physician Assistants and Registered Nurse Practitioners (LAC 32:III.301) 208

Natural Resources

Office of Conservation—Orphaned Oilfield Sites..... 209

Office of the Secretary—Fishermen's Gear Compensation Fund

Loran Coordinates—Underwater Obstructions 209

VIII. INDEX 210

Executive Orders

EXECUTIVE ORDER KBB 07-33

Bond Allocation—Industrial Development Board of the Parish of Jefferson Davis, Louisiana, Inc.

WHEREAS, pursuant to the Tax Reform Act of 1986 and Act 51 of the 1986 Regular Session of the Louisiana Legislature, Executive Order No. KBB 2005-12 was issued to establish:

- (1) a method for allocating bonds subject to private activity bond volume limits, including the method of allocating bonds subject to the private activity bond volume limits for the calendar year of 2007 (hereafter "the 2007 Ceiling");
- (2) the procedure for obtaining an allocation of bonds under the 2007 Ceiling; and
- (3) a system of central record keeping for such allocations; and

WHEREAS, the Industrial Development Board of the Parish of Jefferson Davis, Louisiana, Inc. has requested an allocation from the 2007 Ceiling to finance the acquisition and construction of a textile manufacturing facility by Zagis USA, LLC in the city of Jennings, parish of Jefferson Davis, state of Louisiana, in accordance with the provisions of Section 146 of the Internal Revenue Code of 1986, as amended;

NOW THEREFORE, I, KATHLEEN BABINEAUX BLANCO, Governor of the state of Louisiana, by virtue of the authority vested by the Constitution and the laws of the state of Louisiana, do hereby order and direct as follows:

SECTION 1: The bond issue, as described in this Section, shall be and is hereby granted an allocation from the 2007 Ceiling in the amount shown:

Amount of Allocation	Name of Issuer	Name of Project
\$10,000,000	Industrial Development Board of the Parish of Jefferson Davis, Louisiana Inc.	Zagis USA, LLC

SECTION 2: The allocation granted herein shall be used only for the bond issue described in Section 1 and for the general purpose set forth in the "Application for Allocation of a Portion of the State of Louisiana's Private Activity Bond Ceiling" submitted in connection with the bond issue described in Section 1.

SECTION 3: The allocation granted herein shall be valid and in full force and effect through December 31, 2007, provided that such bonds are delivered to the initial purchasers thereof on or before December 29, 2007.

SECTION 4: All references in this Order to the singular shall include the plural, and all plural references shall include the singular.

SECTION 5: This Order is effective upon signature and shall remain in effect until amended, modified, terminated, or rescinded by the governor, or terminated by operation of law.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of Louisiana, at the Capitol, in the city of Baton Rouge, on this 20 day of December, 2007.

Kathleen Babineaux Blanco
Governor

ATTEST BY
THE GOVERNOR
Jay Dardenne
Secretary of State
0801#052

EXECUTIVE ORDER KBB 07-34

2007 Carry-Forward Bond Allocation
Louisiana Housing Finance Agency

WHEREAS, pursuant to the Tax Reform Act of 1986 and Act 51 of the 1986 Regular Session of the Louisiana Legislature (hereafter "Act"), Executive Order No. KBB 2005- 12 was issued to establish:

- (1) a method for allocating bonds subject to private activity bond volume limits, including the method of allocating bonds subject to the private activity bond volume limits for the calendar year of 2007 (hereafter "the 2007 Ceiling");
- (2) the procedure for obtaining an allocation of bonds under the 2007 Ceiling; and
- (3) a system of central record keeping for such allocations;

WHEREAS, Section 4(H) of KBB 2005-12 provides that if the ceiling for a calendar year exceeds the aggregate amount of bonds subject to the private activity bond volume limit issued during the year by all issuers, by executive order, the governor may allocate the excess amount to issuers or an issuer for use as a carry-forward for one or more carry-forward projects permitted under the Act;

WHEREAS, Executive Order No. KBB 2007-22, issued on October 2, 2007, allocated twenty-five million dollars (\$25,000,000) from the 2007 Ceiling to the Louisiana Housing Finance Agency for Single Family Mortgage Revenue Bonds, but three hundred twelve thousand, twenty-two dollars (\$312,022) was returned unused to the 2007 Ceiling;

WHEREAS, Executive Order No. KBB 2007-25, issued on October 29, 2007, allocated fifteen million dollars (\$15,000,000) from the 2007 Ceiling to the Hammond-Tangipahoa Home Mortgage Authority for Single Family Mortgage Revenue Bonds, but the entire allocation of fifteen million dollars (\$15,000,000) was returned unused to the 2007 Ceiling;

WHEREAS, Executive Order No. KBB 2007-26, issued on October 29, 2007, allocated fifty million dollars (\$50,000,000) from the 2007 Ceiling to the Lafayette Public Trust Financing Authority for Single Family Mortgage Revenue Bonds, but twenty-four million, eight hundred

thousand dollars (\$24,800,000) was returned unused to the 2007 Ceiling;

WHEREAS, Executive Order No. KBB 2007-29, issued on November 6, 2007, allocated forty-two million dollars (\$42,000,000) from the 2007 Ceiling to the East Baton Rouge Mortgage Finance Authority for Single Family Mortgage Revenue Bonds, but the entire allocation of forty-two million dollars (\$42,000,000) was returned unused to the 2007 Ceiling;

WHEREAS, the governor desires to allocate eighty-two million, one hundred thirty-two thousand, twenty-two dollars (\$82,132,022) of the excess 2007 Ceiling as a carry-forward for a project which is permitted and eligible under the Act;

NOW THEREFORE, I, KATHLEEN BABINEAUX BLANCO, Governor of the state of Louisiana, by virtue of the authority vested by the Constitution and the laws of the state of Louisiana, do hereby order and direct as follows:

SECTION 1: Pursuant to and in accordance with the provisions of Section 146(f) of the Internal Revenue Code of 1986, as amended, and in accordance with the request for a carry-forward filed by the designated issuer, excess private activity bond volume limit under the 2007 Ceiling is hereby allocated to the following issuer, for the following carry-forward project, and in the following amount.

Issuer	Carry-Forward Project	Carry-Forward Amount
Louisiana Housing Finance Agency	Single Family Mortgage Revenue Bond Program	\$82,132,022

SECTION 2: All references in this Order to the singular shall include the plural, and all plural references shall include the singular.

SECTION 3: This Order is effective upon signature and shall remain in effect until amended, modified, terminated, or rescinded by the governor, or terminated by operation of law.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of the state of Louisiana, at the Capitol, in the city of Baton Rouge, on this 21 day of December, 2007.

Kathleen Babineaux Blanco
Governor

ATTEST BY
THE GOVERNOR
Jay Dardenne
Secretary of State
0801#053

EXECUTIVE ORDER KBB 07-35
2007 Carry-Forward Bond Allocation
Louisiana Public Facilities Authority

WHEREAS, pursuant to the Tax Reform Act of 1986 and Act 51 of the 1986 Regular Session of the Louisiana Legislature (hereafter "Act"), Executive Order No. KBB 2005-12 was issued to establish:

(1) a method for allocating bonds subject to private activity bond volume limits, including the method of allocating bonds subject to the private activity bond volume

limits for the calendar year of 2007 (hereafter "the 2007 Ceiling");

(2) the procedure for obtaining an allocation of bonds under the 2007 Ceiling; and

(3) a system of central record keeping for such allocations;

WHEREAS, Section 4(H) of KBB 2005-12 provides that if the ceiling for a calendar year exceeds the aggregate amount of bonds subject to the private activity bond volume limit issued during the year by all issuers, by executive order, the governor may allocate the excess amount to issuers or an issuer for use as a carry-forward for one or more carry-forward projects permitted under the Act;

WHEREAS, the governor desires to allocate twenty-five million, seven hundred eighty thousand, two hundred eighty dollars (\$25,780,280) of the excess 2007 Ceiling as a carry-forward for a project which is permitted and eligible under the Act;

NOW THEREFORE, I, KATHLEEN BABINEAUX BLANCO, Governor of the state of Louisiana, by virtue of the authority vested by the Constitution and the laws of the state of Louisiana, do hereby order and direct as follows:

SECTION 1: Pursuant to and in accordance with the provisions of Section 146(f) of the Internal Revenue Code of 1986, as amended, and in accordance with the request for a carry-forward filed by the designated issuer, excess private activity bond volume limit under the 2007 Ceiling is hereby allocated to the following issuer, for the following carry-forward project, and in the following amount.

Issuer	Carry-Forward Project	Carry-Forward Amount
Louisiana Public Facilities Authority	Student Loan Revenue Bond Program	\$25,780,280

SECTION 2: All references in this Order to the singular shall include the plural, and all plural references shall include the singular.

SECTION 3: This Order is effective upon signature and shall remain in effect until amended, modified, terminated, or rescinded by the governor, or terminated by operation of law.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of the state of Louisiana, at the Capitol, in the city of Baton Rouge, on this 21 day of December, 2007.

Kathleen Babineaux Blanco
Governor

ATTEST BY
THE GOVERNOR
Jay Dardenne
Secretary of State
0801#054

EXECUTIVE ORDER KBB 07-36
2007 Carry-Forward Bond Allocation
Louisiana Housing Finance Agency

WHEREAS, pursuant to the Tax Reform Act of 1986 and Act 51 of the 1986 Regular Session of the Louisiana Legislature (hereafter "Act"), Executive Order No. KBB 2005-12 was issued to establish:

EXECUTIVE ORDER KBB 07-37

2007 Carry-Forward Bond Allocation
Calcasieu Parish Public Trust Authority

(1) a method for allocating bonds subject to private activity bond volume limits, including the method of allocating bonds subject to the private activity bond volume limits for the calendar year of 2007 (hereafter "the 2007 Ceiling");

(2) the procedure for obtaining an allocation of bonds under the 2007 Ceiling; and

(3) a system of central record keeping for such allocations;

WHEREAS, Section 4(H) of KBB 2005-12 provides that if the ceiling for a calendar year exceeds the aggregate amount of bonds subject to the private activity bond volume limit issued during the year by all issuers, by executive order, the governor may allocate the excess amount to issuers or an issuer for use as a carry-forward for one or more carry-forward projects permitted under the Act;

WHEREAS, the governor desires to allocate twenty-four million dollars (\$24,000,000) of the excess 2007 Ceiling as a carry-forward for a project which is permitted and eligible under the Act;

NOW THEREFORE, I, KATHLEEN BABINEAUX BLANCO, Governor of the state of Louisiana, by virtue of the authority vested by the Constitution and the laws of the state of Louisiana, do hereby order and direct as follows:

SECTION 1: Pursuant to and in accordance with the provisions of Section 146(f) of the Internal Revenue Code of 1986, as amended, and in accordance with the request for a carry-forward filed by the designated issuer, excess private activity bond volume limit under the 2007 Ceiling is hereby allocated to the following issuer, for the following carry-forward project, and in the following amount.

Issuer	Carry-Forward Project	Carry-Forward Amount
Louisiana Housing Finance Agency	Multi-Family Mortgage Revenue Bond Program	\$24,000,000

SECTION 2: All references in this Order to the singular shall include the plural, and all plural references shall include the singular.

SECTION 3: This Order is effective upon signature and shall remain in effect until amended, modified, terminated, or rescinded by the governor, or terminated by operation of law.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of the state of Louisiana, at the Capitol, in the city of Baton Rouge, on this 21 day of December, 2007.

Kathleen Babineaux Blanco
Governor

ATTEST BY
THE GOVERNOR
Jay Dardenne
Secretary of State
0801#055

WHEREAS, pursuant to the Tax Reform Act of 1986 and Act 51 of the 1986 Regular Session of the Louisiana Legislature (hereafter "Act"), Executive Order No. KBB 2005-12 was issued to establish:

(1) a method for allocating bonds subject to private activity bond volume limits, including the method of allocating bonds subject to the private activity bond volume limits for the calendar year of 2007 (hereafter "the 2007 Ceiling");

(2) the procedure for obtaining an allocation of bonds under the 2007 Ceiling; and

(3) a system of central record keeping for such allocations;

WHEREAS, Section 4(H) of KBB 2005-12 provides that if the ceiling for a calendar year exceeds the aggregate amount of bonds subject to the private activity bond volume limit issued during the year by all issuers, by executive order, the governor may allocate the excess amount to issuers or an issuer for use as a carry-forward for one or more carry-forward projects permitted under the Act;

WHEREAS, Executive Order No. KBB 2007-24, issued on October 2, 2007, allocated fifteen million dollars (\$15,000,000) from the 2007 Ceiling to the Calcasieu Parish Public Trust Authority for Single Family Mortgage Revenue Bonds, but the entire allocation of fifteen million dollars (\$15,000,000) was returned unused to the 2007 Ceiling;

WHEREAS, the governor desires to allocate fifteen million dollars (\$15,000,000) of the excess 2007 Ceiling as a carry-forward for a project which is permitted and eligible under the Act;

NOW THEREFORE, I, KATHLEEN BABINEAUX BLANCO, Governor of the state of Louisiana, by virtue of the authority vested by the Constitution and the laws of the state of Louisiana, do hereby order and direct as follows:

SECTION 1: Pursuant to and in accordance with the provisions of Section 146(f) of the Internal Revenue Code of 1986, as amended, and in accordance with the request for a carry-forward filed by the designated issuer, excess private activity bond volume limit under the 2007 Ceiling is hereby allocated to the following issuer, for the following carry-forward project, and in the following amount.

Issuer	Carry-Forward Project	Carry-Forward Amount
Calcasieu Parish Public Trust Authority	Single Family Mortgage Revenue Series 2007	\$15,000,000

SECTION 2: All references in this Order to the singular shall include the plural, and all plural references shall include the singular.

SECTION 3: This Order is effective upon signature and shall remain in effect until amended, modified, terminated, or rescinded by the governor, or terminated by operation of law.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of the state of Louisiana, at the Capitol, in the city of Baton Rouge, on this 21 day of December, 2007.

Kathleen Babineaux Blanco
Governor

ATTEST BY
THE GOVERNOR
Jay Dardenne
Secretary of State
0801#056

Emergency Rules

DECLARATION OF EMERGENCY

**Office of the Governor
Division of Administration
Racing Commission**

Equine Veterinary Practices, Health, and Medication
(LAC 35:I.Chapters 15-17, III.3709, V.6301, 6353
and LAC 46:XLI.Chapters 1, 3, and 15)

The Louisiana State Racing Commission is exercising the emergency provisions of the Administrative Procedure Act, R.S. 49:953(B), and pursuant to the authority granted under R.S. 4:141 et seq., adopts the following Emergency Rule effective December 14, 2007, and it shall remain in effect for 120 days or until this Rule takes effect through the normal promulgation process, whichever comes first.

The Louisiana State Racing Commission finds it necessary to amend this Rule to further promote horseracing and increased revenues therefrom, by ensuring fair and alternate wagering opportunities to the public.

Title 35

HORSE RACING

Part I. General Provisions

Chapter 15. Permitted Medication

§1503. Anti-Ulcer Medications

A. One of the following anti-ulcer medications are permitted to be administered, at the stated dosage, up to 24 hours prior to the race in which the horse is entered:

1. Cimetidine (Tagamet®)—8-20 mg/kg PO BID-TID;
2. Omeprazole (Gastrogard®)—2.2 grams PO SID;
3. Ranitidine (Zantac®)—8 mg/kg PO BID.

B. Thresholds for the regulation of the dose and 24-hour withdrawal of these substances will be based of blood levels derived form data taken from the current scientific literature.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:141 and R.S. 4:142.

HISTORICAL NOTE: Promulgated by the Division of Administration, Racing Commission, LR 34:

§1505. Nonsteroidal and/or Anti-Inflammatory Medication

A. No nonsteroidal and/or anti-inflammatory medication may be administered to or used on a horse in training and eligible to be raced at a race meeting in this state except by a licensed veterinarian or a licensed trainer, or under his or her personal order; provided, however, that any such medication given hypodermically may only be administered by a licensed veterinarian.

B. In addition to any other urine or blood specimens required to be tested and analyzed, the stewards may order the taking of a blood specimen from any horse from which a urine specimen has been taken or will be taken while the horse is at the special barn and/or test barn as provided in §5761 which blood specimen shall be delivered to the state chemist for testing and analysis

C. The use of one of three approved nonsteroidal and/or anti-inflammatory (NSAID) medication shall be permitted under the following conditions:

1. not to exceed the following permitted serum or plasma threshold concentrations, which are consistent with administration by a single intravenous injection at least 24 hours before the post time for the race in which the horse is entered:

a. phenylbutazone (or its metabolite oxyphenylbutazone)—5 micrograms per milliliter; if selected for use 48 hours out, the blood threshold is 1.0 ug/ml;

b. flunixin—50 nanograms per milliliter; if selected for use 48 hours out, the blood threshold is 2.0 ng/ml;

c. ketoprofen—10 nanograms per milliliter; if selected for use 48 hours out, the blood threshold is 0.5 ng/ml;

2. these or any other NSAID is prohibited to be administered within the 24 hours before post time for the race in which the horse is entered;

3. the presence of more than one of the three approved NSAIDs, with the exception of Phenylbutazone in a concentration below 1 microgram per milliliter of serum or plasma or any unapproved NSAID in the post-race serum or plasma sample is not permitted. The use of all but one of the approved NSAIDs shall be discontinued at least 48 hours before the post time for the race in which the horse is entered.

NOTE: the use of any of the approved NSAIDs in a multi-day, multi-dose regimen will lead to drug accumulation. To avoid positives, longer withdrawal times should be observed. The use of other NSAIDs such as naproxen, is not recommended. If used as therapeutic, other NSAIDs should be withdrawn for at least two weeks prior to the scheduled race date.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:141 and R.S. 4:142.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Racing Commission, LR 9:547 (August 1983), amended by the Division of Administration, Racing Commission, LR 34:

§1507. Bleeder Medication

A. No bleeder medication may be administered to a horse in training for a race during any race meeting except upon compliance with the following.

1. Only a licensed veterinarian may prescribe, dispense and administer bleeder medication.

2. No horse entered to race may be administered bleeder medication within four hours of post-time of the race in which the horse is to run.

3. Bleeder medication shall only be administered on association grounds.

B. A horse shall be considered a known bleeder when:

1. it is observed bleeding by a commission veterinarian during and/or after a race or workout;

2. an endoscopic examination authorized by the commission veterinarian or state steward, conducted within one hour of a race or workout, reveals blood in the trachea and/or upper respiratory tract of the horse examined;

3. a statement from a commission veterinarian of any other racing jurisdiction, confirming that a specific horse is a known bleeder is received by the commission or stewards having jurisdiction of the race meeting where such horse may be eligible to race.

C. A horse may be removed from the bleeder list only upon the direction of a commission veterinarian, who shall certify in writing to the stewards the recommendation for removal.

D. The commission veterinarian at each race meeting shall maintain a current list of all horses, which have demonstrated external evidence of exercise induced pulmonary hemorrhage from one or both nostrils during or after a race or workout as observed by the commission veterinarian.

E. A bleeder, regardless of age, shall be placed on the bleeder list and be ineligible to run during the following periods of time:

1. first time, for 14 days;
2. second time, within a 365 day period, for 30 days;
3. third time, within 3655 day period, for 180 days;
4. fourth time, within a 365 day period, lifetime suspension;
5. should a horse which is on the bleeder list race three times within 365 days without bleeding, it shall be considered a first-time bleeder when next it is observed bleeding by a commission veterinarian or an endoscopic examination, conducted within one hour of a race, reveals blood in the trachea and/or upper respiratory tract;

6. for the purposes of this rule the period of ineligibility on the first day bleeding was observed;

7. the voluntary administration of bleeder medication without evidence of an external bleeding incident does not subject a horse to the above periods of ineligibility.

F. The licensed veterinarian prescribing, dispensing, and administering bleeder medication must furnish a written report to the commission veterinarian at least one hour prior to post-time for the first race of the day on forms supplied by the commission. Furnishing of such written report timely shall be the responsibility of the prescribing, dispensing, and/or administering veterinarian. The following information shall be provided, under oath, on a form provided by the commission:

1. the name of the horse, racetrack name, the date and time the permitted bleeder medication was administered to the entered horse;

2. the dosage amount of bleeder medication administered to the entered horse; and

3. the printed name and signature of the licensed veterinarian who administered the bleeder medication.

G. Approved bleeder medication may be voluntarily administered intravenously to a horse, which is entered to compete in a race subject to compliance with the following conditions:

1. the trainer and/or attending veterinarian determine it is in a horse's best interests to race with bleeder medication, and they make written request upon the commission veterinarian, using the prescribed form, that the horse to be placed on the voluntary bleeder medication list;

2. the request is actually received by the commission veterinarian or his/her designee by the time of entry;

3. the horse race with bleeder medication and remain on the voluntary bleeder medication list unless and until the trainer and attending veterinarian make a joint, written request on a form provided by the commission to the commission veterinarian to remove the horse from the list;

4. once removed from the voluntary bleeder medication list, a horse may not be voluntarily placed back on the list for a period of 60 days unless the commission veterinarian determines on recommendation and concurrence of the attending veterinarian that it jeopardizes the welfare of the horse. Once a horse is voluntarily removed from the list twice within a 365-day period, the horse may not be voluntarily placed back on the list for bleeder medication for a period of 90 days.

H. In order to insure that the use of bleeder medication is reported accurately, the commission shall have the right to perform or have performed testing of blood or urine of any horse eligible to race at a meeting, whenever it is deemed necessary by it or its stewards. The veterinarian administering the approved bleeder medication shall surrender the syringe used to administer such medication for testing upon request of the commission veterinarian, a steward or either of their designated representatives.

I. Post race analysis of furosemide must show detectable concentrations of the drug in serum, plasma or urine sample that is indicative of appropriate administration.

1. Specific gravity of post-race urine samples may be measured to ensure that samples are sufficiently concentrated for proper chemical analysis. Specific gravity shall not be below 1.010. If the specific gravity of the urine is below 1.010 or a urine sample is unavailable for testing, quantitation of furosemide shall be performed on in serum or plasma.

2. Quantitation of furosemide in serum or plasma may not exceed 100 nanograms of furosemide per milliliter of serum or plasma.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:141 and R.S. 4:142.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Racing Commission, LR 6:174 (May 1980), amended LR 9:547 (August 1983), amended by the Department of Economic Development, Racing Commission LR 15:7 (January 1989), LR 22:12 (January 1996), LR 23:950 (August 1997), amended by the Division of Administration, Racing Commission, LR 34:

§1509. Definitions

A. As used in this rule:

Bleeder Medication—drugs or medications which are permitted by the commission and are recognized by the veterinary profession for the treatment of exercise-induced hemorrhage.

Permitted Medication—Furosemide, by single intravenous injection not less than 150 mg and not exceed 500 mg:

a. approved adjunct, bleeder medications: Ethacrynic Acid, Bumetanide, Estrogen, Ergonovine, Amino Caproic Acid, Carbazochrome.

Veterinarian—a person who is licensed to practice veterinary medicine in Louisiana, and who is licensed by the commission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:141 and R.S. 4:142.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Racing Commission, LR 6:174 (May 1980), amended

LR 9:548 (August 1983), amended by the Division of Administration, Racing Commission, LR 34:

Chapter 17. Corrupt and Prohibited Practices

§1707. United States Food and Drug Administration

Approval

A. Any substance or material for human or animal use, ingestion or injection, or for testing purposes that is not formally approved by the United States Food and Drug Administration is prohibited.

B. The possession of any such substance that has not been approved by the United States Food and Drug Administration on the premises of a racetrack is strictly prohibited in the absence of prior, written permission of the commission or its designee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:148.

HISTORICAL NOTE: Adopted by the Racing Commission in 1971, promulgated by the Department of Commerce, Racing Commission, LR 2:448 (December 1976), amended LR 3:44 (January 1977), LR 4:287 (August 1978), amended by the Division of Administration, Racing Commission, LR 34:

§1715. Stimulant; Substances

A. A stimulant, a depressant, a local anesthetic shall mean such substances as are commonly used by the medical and veterinary professions to produce such effects, and which are defined as such in accepted scientific publications.

B. The possession or use of any drug, medication or substance for which there is no recognized analytical method developed to detect and confirm the administration or presence of such substance in a horse; or the use of such substance in a manner which may endanger the health and welfare of the horse, the safety of a rider, or adversely affect the integrity of racing within the confines of a race track or within its stables, buildings, sheds or grounds, or within auxiliary (off-track) stable area, where horses are kept which are eligible to race is strictly prohibited.

C. The possession and/or use of blood doping agents on these premises is prohibited. These agents include, but are not limited to the following:

1. Erythropoietin;
2. Darbepoetin;
3. Oxyglobin®; and
4. Hemopure®.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:148.

HISTORICAL NOTE: Adopted by the Racing Commission in 1971, promulgated by the Department of Commerce, Racing Commission, LR 2:448 (December 1976), amended LR 3:44 (January 1977), LR 4:287 (August 1978), amended by the Division of Administration, Racing Commission, LR 34:

§1716. Human Recombinant Erythropoietin and/or Darbepoetin; Out of Competition Testing for Blood and/or Gene Doping

A. The possession and/or use of human recombinant erythropoietin and/or darbepoetin is strictly prohibited, and shall be classified as an RCI Category I substance. Every horse eligible to race in Louisiana is subject to random testing for these and other substances.

B. Any horse kept on the grounds of a racetrack or auxiliary (off-track) stable area or which is under the supervision, care and control of a licensed trainer, which is eligible to race, but out of competition, is subject to testing for blood and/or gene doping agents. Horses may be selected for testing at random or at the direction of the commission.

Specimens collected for testing shall be sent to the state chemist for analysis under the *Rules of Racing* and reported upon. These substances and practices are defined as:

1. *blood doping agents*—the use of possession of any substance that abnormally enhances the oxygen of body tissues, including, but not limited to Erythropoietin (EPO), Darbepoetin, Oxyglobin, Hemopure, Aransep;

2. *gene doping*—the non-therapeutic use of genes, genetic elements, and/or cells that have the capacity to enhance athletic performance or produce analgesia.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:141, R.S. 4:142 and R.S. 4:148.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Racing Commission LR 31:3160 (December 2005), amended LR 34:

§1717. Use of Drug Affecting Performance

A. The use of a stimulant, depressant, or anesthetic in a manner that might affect, or tend to affect, the racing performance of a horse is prohibited. (Stimulants and depressants are defined as medications, which stimulate or depress the circulatory, respiratory, or central nervous systems.)

B. The following substances are recognized environmental contaminants because they are endogenous to the horse, found in plants grazed or harvested as equine feed, or commonly found in equine feed due to the cultivation, processing, treatment, storage or transportation. Detection of these substances in post race analysis at or below the following thresholds may not be considered a violation of this Chapter:

1. caffeine, 25 ng/ml in blood or 100 ng/ml in urine;
2. cocaine, <1 ng/ml in blood or 150 ng/ml in urine;
 - a. (Benzoyl Ecgonine Metabolite);
3. morphine, <1 ng/ml in blood or 120 ng/ml in urine;
4. lidocaine, <1 ng/ml in blood or 25 ng/ml in urine;
5. strychnine, 100 ng/ml in urine.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:148.

HISTORICAL NOTE: Adopted by the Racing Commission in 1971, promulgated by the Department of Commerce, Racing Commission, LR 2:448 (December 1976), amended LR 3:44 (January 1977), LR 4:287 (August 1978), amended by the Division of Administration, Racing Commission, LR 34:

§1721. Modern Therapeutic Measures

A. Full use of modern therapeutic measures for the improvement and protection of the health of a horse is authorized. However, no medication, including any prohibited drug, permitted medication, chemical or other substance, or any therapeutic measure may be administered, caused to be administered or applied by any means to a horse during the 24-hour period before post time for the race in which the horse is entered unless otherwise permitted by rule.

B. The use of Extracorporeal Shock Wave Therapy or Radial Pulse Wave Therapy shall not be permitted except under the following conditions.

1. The horse shall not be entered to race for 10 days following treatment.

2. Treatment by Extracorporeal Shock Wave Therapy or Radial Pulse Wave Therapy machines is limited to veterinarians licensed to practice by the commission and must be reported not later than 48 hour post treatment.

3. Treatment by Extracorporeal Shock Wave Therapy or Radial Pulse Wave Therapy at the racetrack is subject to advance notice and approval by the stewards. A log shall be maintained of each treatment at the racetrack, the date, time, and name of horse treated.

C. The use of a nasogastric tube (a tube longer than six inches) for the administration of any substance within 24 hours prior to the post time of the race in which the horse is entered is prohibited absent the prior, written permission of the commission veterinarian.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:148.

HISTORICAL NOTE: Adopted by the Racing Commission in 1971, promulgated by the Department of Commerce, Racing Commission, LR 2:449 (December 1976), amended LR 3:45 (January 1977), LR 4:287 (August 1978), LR 6:174 (May 1980), LR 6:543 (September 1980), amended by the Division of Administration, Racing Commission, LR 34:

§1723. Personal Veterinary Records

A. Personal veterinary records, which accurately record all medications, shall be maintained by veterinarians, owners, trainers, and/or authorized personnel and will be made available to racing officials on request.

B. All veterinarians licensed by the commission who treat horses entered to race shall maintain an individual daily record of all medications administered or prescribed, all procedures performed, or treatment rendered to any horse entered to race. The daily record shall specify the day, the date, the name of the horse, the trainer's name, any medication, drug or substance administered or prescribed to the horse and/or any procedure performed on the horse on that date and the time administered or performed. The name of the attending or prescribing veterinarian must be clearly printed at the bottom of each page of the daily record, and the record must be personally dated and signed by the attending veterinarian. All daily records must be available to the stewards or commission veterinarian upon request. Failure to maintain accurate daily records may subject the veterinarian to a fine and/or suspension.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:148 and R.S. 4:153.

HISTORICAL NOTE: Adopted by the Racing Commission in 1971, promulgated by the Department of Commerce, Racing Commission, LR 2:449 (December 1976), amended LR 3:45 (January 1977), LR 4:287 (August 1978), amended by the Division of Administration, Racing Commission, LR 34:

§1729. State Chemist Report

A. When a report is received from the state chemist reflecting in his expert opinion that the chemical analysis of blood, saliva, urine, or other samples taken from a horse indicated the presence of a prohibited narcotic, stimulant, depressant or analgesic, local anesthetic or drugs of any description, this shall be taken as prima facie evidence that such has been administered to the horse. Such shall also be taken as prima facie evidence that the owner and/or trainer and/or groom has been negligent in handling of the horse.

B. Prohibited substances include, but are not limited to, the following:

1. drugs or medications for which no acceptable threshold concentration has been established;
2. therapeutic medications in excess of established threshold concentrations;

3. substances present in a horse in excess of concentrations at which such substances could occur naturally; and

4. substances foreign to a horse at concentrations that cause interference with an analytical process.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:148.

HISTORICAL NOTE: Adopted by the Racing Commission in 1971, promulgated by the Department of Commerce, Racing Commission, LR 2:449 (December 1976), amended LR 3:45 (January 1977), LR 4:287 (August 1978), amended by the Division of Administration, Racing Commission, LR 34:

§1731. Defenses to Report

A. The owner and/or trainer and/or groom and/or other person shall be permitted to interpose reasonable and legitimate defenses before the commission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:148.

HISTORICAL NOTE: Adopted by the Racing Commission, 1971, promulgated by the Department of Commerce, Racing Commission, LR 2:449 (December 1976), amended LR 3:45 (January 1977), LR 4:287 (August 1978), amended by the Division of Administration, Racing Commission, LR 34:

§1735. Trainers Responsible for Condition of Horse

A. The trainer and/or assistant trainer shall be responsible for and be the absolute insurer of the condition of the horses entered regardless of acts of third parties. Trainers and/or assistant trainers are presumed to know the rules of the commission.

B. The trainer is responsible for the presence of any drug or medication detected in the horse, whether prohibited or permitted. A positive test reported by the state chemist for a prohibited drug, medication or substance, including permitted medication in impermissible concentrations, is prima facie evidence of a trainer's negligence. In the absence of substantial evidence to the contrary, the trainer shall be strictly liable for the condition of the horse.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:141 and R.S. 4:148.

HISTORICAL NOTE: Adopted by the Racing Commission in 1971, promulgated by the Department of Commerce, Racing Commission, LR 2:449 (December 1976), amended LR 3:45 (January 1977), LR 4:287 (August 1978), amended by the Division of Administration, Racing Commission, LR 34:

§1743. Possession of Drugs, Syringes or Needles

A. No person shall have in his possession, within the confines of a race track or within its stables, buildings, sheds or grounds, or within an auxiliary (off-track) stable area, where horses are lodged or kept which are eligible to race over a race track of any association holding a race meeting, any prohibited drugs, hypodermic syringes or hypodermic needles or similar instruments which may be used for injection. Any person with a medical condition that requires a hypodermic syringe must give notice to the stewards for an exemption from this rule, which notice must have attached thereto a medical explanation from the treating physician supporting, and must comply with any conditions and/or restrictions prescribed by the stewards or the commission.

B. This rule shall not apply to veterinarians licensed by the commission. However, licensed veterinarians may only use one-time, disposable, hypodermic needles and syringes. Disposal of all used, hypodermic needles and syringes in a manner consistent with the *Louisiana Veterinary Practice Act* is the personal responsibility of the licensed veterinarian.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:141 and R.S. 4:148.

HISTORICAL NOTE: Adopted by the Racing Commission in 1971, promulgated by the Department of Commerce, Racing Commission, LR 2:449 (December 1976), amended LR 3:45 (January 1977), LR 4:288 (August 1978), amended by the Department of Economic Development, Racing Commission, LR 16:765 (September 1990), amended by the Division of Administration, Racing Commission, LR 34:

§1788. Physical Examination of Horse

A. Every horse entered to race shall be subject to a veterinary examination conducted under the supervision and authority of a commission veterinarian which examination shall be attended by the trainer or his designated representative. The examination shall be conducted in accordance with recommendations of the American Association of Equine Practitioners and shall include, but not be limited to the following:

1. proper identification of each horse inspected;
2. observation of each horse in motion if it is:
 - a. a first time starter;
 - b. first start after being on a veterinarian's list;
 - c. first start after 60-day lay off or;
 - d. has dropped 50 percent or greater in claiming price;
3. manual palpation, when indicated;
4. close observation in paddock, saddling area, post parade and loading in starting gate; and
5. any other observation, exercise or examination deemed necessary by the examining veterinarian.

B. Every horse who is injured while in training or in competition and who subsequently expires or is destroyed is subject to a post-mortem examination. Every horse, which expires while stabled at the racetrack or licensed training facilities, may be subject to a postmortem examination. For purposes of a postmortem examination, the commission may take possession of the horse upon death. Upon completion of a postmortem examination, the carcass shall be released to the owner for disposal in accordance with state law. Postmortem examination may include, but not be limited to, the collection of blood, urine, other bodily fluid, or tissue specimen for analysis. The detection of a drug, medication or other substance in a horse postmortem may constitute a violation under the *Rules of Racing*. Trainers and owners shall comply with all reasonable measures to facilitate a postmortem examination of a horse. The commission shall make all reasonable effort to coordinate the postmortem examination with the trainer and/or owner and address issues related to insurance and policies of insurance.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:141 and R.S. 4:148.

HISTORICAL NOTE: Promulgated by Division of Administration, Racing Commission, LR 34:

§1795. Classification of Foreign Substances by Category

A. Prohibited drugs and prohibited substances are classified in the appropriate one of five classes.

B. Known and identified prohibited drugs and substances are classified and listed according to their appropriate class as defined in the Association of Racing Commissioners International, Inc. Drug Testing and Quality Assurance Program's *Uniform Classification Guidelines for Foreign Substances*.

1. Category I includes any drugs, which have no recognized therapeutic use in a racehorse, and includes U.S. Drug Enforcement Agency DEA schedule I and II drugs.

2. Category II includes drugs which may include lesser drugs which have no accepted therapeutic value to a horse or which, notwithstanding a recognized therapeutic value, should not be present in a racehorse.

3. Category III includes drugs which may have a recognized therapeutic value to a horse, but which have the potential of affecting the performance of a horse.

4. Category IV includes therapeutic medications, which are routinely administered to equines and have a lesser ability to affect performance.

5. Category V includes therapeutic medications and/or substances routinely administered or given to horses and is considered to affect performance of a horse when detected at or below certain threshold values.

C. Unknown or unidentified drugs or substances, which are prohibited but not listed, shall be appropriately classified by the state chemist upon discovery or detection. A supplemental listing of the appropriate classification of such discovered or detected drugs shall be maintained at the domicile office and be made available to the public upon request. A prohibited drug or substance remains prohibited regardless of whether it is listed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:141 and R.S. 4:148.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Racing Commission, LR 19:613 (May 1993), amended by the Division of Administration, Racing Commission, LR 34:

§1797. Penalty Guidelines

A. Upon finding a violation by a permittee of prohibited medication rules, of prohibited substance rules, or of improper or excessive use of permitted medications, the stewards, or the commission, shall consider the classification level as set forth in §1795 and will, in the absence of mitigating or aggravating circumstances, endeavor to impose penalties and disciplinary measures consistent with the recommended guidelines contained herein. The stewards shall consult with a commission veterinarian to determine whether the violation was a result of an administration of a therapeutic medication. The stewards may consult with the state chemist to determine the severity of the violation. Whenever a majority of the stewards find or conclude that there are mitigating or aggravating circumstances, they should so state in their ruling such finding or conclusion, and should impose the penalty which they find is appropriate under the circumstances to the extent of their authority or, if necessary, refer the matter to the commission with specific recommendations for further action. The following factors may be considered as a mitigating or aggravating circumstance, which may substantiate a greater or lesser penalty:

1. past record of the trainer, veterinarian and owner;
2. the degree to which the drug or substance affected or could have affected performance, and/or the concentration of the drug or substance in blood and/or urine;
3. availability of the drug or substance;
4. existence of discernable evidence that the party knew of the administration of the drug and/or intentionally administered or caused to be administered the drug or substance;

5. practices, policies or procedures utilized to guard the horse;
6. probability of environmental contamination or inadvertent exposure due to human drug use;
7. whether the drug or medication detected was one for which the horse was prescribed;
8. betting patterns and/or suspicious betting patterns; and/or
9. whether the trainer was acting on the advice of a licensed veterinarian.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:141 and R.S. 4:148.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Racing Commission, LR 19:613 (May 1993), amended by the Division of Administration, Racing Commission, LR 34:

Part III. Personnel, Registration and Licensing

Chapter 37. Veterinarians

§3709. Restriction of Practice

A. No veterinarian employed by the commission or by an association shall be permitted, during the period of his employment, to treat or prescribe for any horse on the grounds or registered to race at any race track, for compensation or otherwise, except in case of emergency, in which case a full and complete report shall be made to the stewards. No owner or trainer shall employ or pay compensation to any such veterinarian, either directly or indirectly, during the period for which he is employed by the commission or an association.

B. No veterinarian licensed by the commission shall have contact with any entered horse on race day except to perform a physical examination or to administer furosemide and/or a permitted adjunct bleeder medication unless prior notice is given to the commission veterinarian.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:148.

HISTORICAL NOTE: Adopted by the Racing Commission in 1971, promulgated by the Department of Commerce, Racing Commission, LR 2:428 (December 1976), amended LR 3:24 (January 1977), LR 4:274 (August 1978), amended by the Division of Administration, Racing Commission, LR 34:

Part V. Racing Procedures

Chapter 63. Entries

§6301. Procedures

A. Entries and declarations shall be made in writing and signed by the owner or trainer of the horse, or his authorized agent or his subagent. Jockey agents may make entries for owners or trainers after presenting the stewards with written permission from the owners or trainers.

B. Any horse entered to run must be present on the grounds not less than five hours prior to the post time of the race they are entered.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:148.

HISTORICAL NOTE: Adopted by the Racing Commission in 1971, promulgated by the Department of Commerce, Racing Commission, LR 2:436 (December 1976), amended LR 3:32 (January 1977), LR 4:279 (August 1978), amended by the Division of Administration, Racing Commission, LR 34:

§6353. Entry after Excused

A. The entry of any horse which has been excused by the stewards from starting due to physical disability or sickness shall not be accepted until the expiration of three calendar days after the day the horse was excused.

B. The commission veterinarian shall maintain a veterinarian list of those horses determined to be unfit to compete in a race due to physical distress, unsoundness, infirmity or other medical condition. When a horse is placed on the veterinarian's list, the trainer of such horse shall be notified within 72 hours. A horse may not be removed from the veterinarian's list until the commission veterinarian opines that the horse has satisfactorily recovered its ability to compete and has had a veterinarian approved one-half mile workout. If a horse is placed on the veterinarian's list twice within a 12-month period, the horse may not be removed from the list until it has completed an approved 5/8 mile workout. A horse placed on the veterinarian's list shall be removed from the list only after having demonstrated to the satisfaction of the-commission veterinarian that the horse is then raceably sound and in fit physical condition to exert its best effort in a race. A blood and/or urine post-work test sample may be taken from the horse and the provisions of the this rule may apply to such official workout in the same manner as to a scheduled race, except that the results of such blood and/or urine test shall not be used for any purpose other than to determine the fitness of the horse to race.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:148.

HISTORICAL NOTE: Adopted by the Racing Commission in 1971, promulgated by the Department of Commerce, Racing Commission, LR 2:437 (December 1976), amended LR 3:34 (January 1977), LR 4:280 (August 1978), LR 11:615 (June 1985), amended by the Department of Economic Development, Racing Commission, LR 14:702 (October 1988), LR 22:13 (January 1996), amended by the Division of Administration, Racing Commission, LR 34:

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part XLI. Horseracing Occupations

Chapter 1. Veterinarians

§101. Licensing Veterinarians

A. All veterinarians shall be licensed to practice under the laws of Louisiana. No owner or trainer shall employ a veterinarian not licensed by the commission. This rule shall apply to veterinarians treating horses stabled off the association grounds and registered to race at any track in the state of Louisiana under supervision of the commission. Any owner or trainer employing unlicensed veterinarians will be subject to a fine or suspension or both.

B. Except as otherwise provided by rule, only a veterinarian licensed by the commission may administer a prescription or controlled medication, drug, chemical or other substance (including any medication, drug, chemical or other substance by injection) to a horse which is eligible to race and kept at any race track or auxiliary (off-track) stable area.

C. These provisions shall not apply to the following substances in approved quantitative levels, if any, present in post-race analysis or except as they may interfere with post race analysis:

1. a recognized non-injectable nutritional supplement or other substance approved by a commission veterinarian;
2. a non-injectable substance on the direction or by prescription an attending veterinarian;
3. a non-injectable non-prescription medication or substance.

D. All veterinarians licensed to practice by the commission shall be subject to the supervisory control of a commission veterinarian and stewards while treating any horse eligible to race.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:148 and R.S. 4:150.

HISTORICAL NOTE: Adopted by the Racing Commission in 1971, promulgated by the Department of Commerce, Racing Commission, LR 2:427 (December 1976), amended LR 3:24 (January 1977), LR 4:273 (August 1978), amended by the Division of Administration, Racing Commission, LR 34:

§105. Administration of Drugs; Hearing

A. All veterinarians administering drugs or other substances to horses regulated by the commission, shall be responsible to see that the drugs or other substances are administered in accordance with the provisions of the *Rules of Racing*. Should any specimen sample disclose the presence of any drug or substance prohibited by the *Rules of Racing*, the stewards or the commission may hold a hearing to determine whether the prohibited drug or substance was received by or administered to the horse in question by any veterinarian in violation of the *Rules of Racing*. If it is determined that a violation occurred, the stewards or commission will apply such sanctions, by fine and/or suspension of license, as is deemed appropriate.

B. Any veterinarian found to have violated these provisions or any other provision under the *Rules of Racing* may be subject to penalty on the recommendation of a commission veterinarian.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:148.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Racing Commission, LR 8:233 (May 1982), amended by the Division of Administration, Racing Commission, LR 34:

Chapter 3. Trainer

§305. Condition of Horse

A. A trainer is responsible for the condition of each horse trained by him.

B. A trainer's responsibility for the condition of the horse includes, but is not limited to the following:

1. maintaining the assigned stable area in a clean, neat and sanitary condition at all times;
2. using only the services of veterinarians licensed by the commission;
3. maintaining the proper identity, custody, care, health and safety of a horse;
4. ensuring a horse's fitness to perform creditably under the conditions of the race entered;
5. ensuring that every horse entered to race is present at its assigned stall for pre-race examination and inspection for soundness five hours prior to post-time for the race in which the horse is entered;
6. ensuring that a horse is properly bandaged, shod and equipped;
7. bringing the horse to paddock in a timely manner;
8. personally attending, unless excused by the stewards, to the horse in the paddock and supervise the saddling thereof;
9. guarding the horse from exposure or administration to any drug, medication or substance, which would constitute a violation under the *Rules of Racing*;
10. promptly reporting to the stewards and commission veterinarian any knowledge, information or belief that a

horse has been administered any drug, medication or substance in violation of the *Rules of Racing*;

11. having each horse tested for Equine Infectious Anemia (EIA) in accordance with applicable state law and/or the *Rules of Racing*;

12. possessing and/or having on file with the racing secretary a valid health certificate and valid negative Equine Infectious Anemia (EIA) test certificate for each horse;

13. promptly reporting to the identifier and racing secretary when a horse has been gelded or spayed and ensuring that such fact is designated on its certificate of registration;

14. promptly reporting to the racing secretary and commission veterinarian when a posterior digital neurectomy (heel nerving) is performed and ensuring that such fact is noted on its certificate of registration;

15. promptly reporting to commission veterinarian any disease or unusual incidence of communicable illness in any horse, which he trains;

16. promptly reporting any serious injury and/or death of a horse at a race track or auxiliary (off-track) track to the stewards and commission veterinarian and ensure compliance with all state law and *Rules of Racing* regarding post-mortem examinations;

17. accompanying, or appointing a delegate to accompany, the horse to the test barn and witness collection of blood and/or urine specimens.

C. A trainer whose horse has been claimed remains responsible for any violation of the *Rules of Racing* arising from the horse's participation in the race from which it was claimed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:148 and R.S. 4:150.

HISTORICAL NOTE: Adopted by the Racing Commission in 1971, promulgated by the Department of Commerce, Racing Commission, LR 2:430 (December 1976), amended LR 3:26 (January 1977), LR 4:275 (August 1978), amended by the Division of Administration, Racing Commission, LR 34:

Chapter 15. Vendors

§1501. License

A. All persons whose business or profession involves the selling or distribution of drugs, medications, pharmaceutical products, horse food or nutrients of any kind or tack equipment on the grounds of an association, including their employees, shall be approved by the association and licensed by, and subject to the authority of the commission.

B. No person on association grounds where horses are stabled or kept, excluding license veterinarians, shall have a drug, medication, chemical, foreign substances or other substance that is prohibited in a horse on race day in their possession, or in any area which that person has a right to occupy, or within their personal property effects or vehicle within their care, custody or control within the confines of a race track unless the product is labeled in accordance with the *Rules of Racing* as set forth in this Chapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:148, R.S. 4:150, R.S. 4:151 and R.S. 4:169.

HISTORICAL NOTE: Adopted by the Racing Commission in 1971, promulgated by the Department of Commerce, Racing Commission, LR 2:436 (December 1976), amended LR 3:32 (January 1977), LR 4:279 (August 1978), amended by the Division of Administration, Racing Commission, LR 34:

§1503. Labeling

A. All drugs, medications, pharmaceutical products and any other substances of a similar nature possessed or used within the grounds of a racing association shall at all times bear appropriate labeling displaying the contests thereof.

B. All drugs or medications equines that require a prescription under any federal or state law must have been obtained by prescription from a licensed veterinarian and in accordance with the law. All prescribed medications must bear a label that is securely attached and clearly shows:

1. the name of the product;
2. the name, address and telephone number of the prescribing veterinarian;
3. the name of each patient (horse) for whom the product is prescribed;
4. the dose, dosage, duration or treatment and expiration date of the prescribed medication;
5. the name of the permittee (trainer) to whom the product was dispensed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:148.

HISTORICAL NOTE: Adopted by the Racing Commission in 1971, promulgated by the Department of Commerce, Racing Commission, LR 2:436 (December 1976), amended LR 3:32 (January 1977), LR 4:279 (August 1978), amended by the Division of Administration, Racing Commission, LR 34:

Charles A. Gardiner III
Executive Director

0801#008

DECLARATION OF EMERGENCY

**Office of the Governor
Division of Administration
Racing Commission**

Pick N (LAC 35:XIII.Chapter 116)

The Louisiana State Racing Commission is exercising the emergency provisions of the Administrative Procedures Act, R.S. 49:953(B), and pursuant to the authority granted under R.S. 4:141 et seq., adopts the following Emergency Rule effective February 9, 2008, and it shall remain in effect for 120 days or until this Rule takes effect through the normal promulgation process, whichever comes first. This declaration extends the Emergency Rule adopted October 12, 2007.

The Louisiana State Racing Commission finds it necessary to amend this Rule to further promote horseracing and increased revenues therefrom, by ensuring fair and alternate wagering opportunities to the public.

**Title 35
HORSE RACING
Part XIII. Wagering**

Chapter 116. Pick N

§11601. Description; Selection; Principle

A. The Pick N is a form of pari-mutuel wagering where N is a varying number of races. Bettors select the first horse in each of N consecutive races designated as the Pick N by the permit holder. The principle of a Pick N is in effect a contract by the purchaser of a Pick N ticket to select the winners of each of the N races designated as the Pick N. The

sale of Pick N tickets other than from pari-mutuel machines shall be deemed illegal and is prohibited.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:149, R.S. 4:149.1 and R.S. 4:149.2.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Racing Commission, LR 28:1014 (May 2002), amended LR 34:

§11603. Wagering Pool

A. The Pick N pool shall be held entirely separate from all other pools and is no part of a daily double, exacta, trifecta, quinella, or any other wagering pool. The Pick N pool is a pool wherein the bettor is required to select N consecutive winning horses and is not a parlay.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:149, R.S. 4:149.1 and R.S. 4:149.2.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Racing Commission, LR 28:1014 (May 2002), amended LR 34:

§11605. Denominations

A. Pick N tickets shall be sold in not less than denominations approved by Commission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:149, R.S. 4:149.1 and R.S. 4:149.2.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Racing Commission LR 28:1014 (May 2002), amended LR 34:

§11607. Approval; Notation

A. Races in which Pick N pools are conducted shall be approved by the commission and clearly designated in the program, and Pick N tickets will be clearly marked as "Pick N" tickets.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:149, R.S. 4:149.1 and R.S. 4:149.2.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Racing Commission, LR 28:1014 (May 2002), amended LR 34:

§11609. Procedure

A. After the wagering closes for the first race of the N designated "Pick N" races, the commission will be deducted from the pari-mutuel pool in accordance with Louisiana law. The remaining net pool, subject to distribution among winning ticket holders shall be distributed among the holders of tickets which correctly designate the winner in each of the N races comprising the Pick N and the aggregate number of winning tickets shall be divided into the net pool and be paid the same payoff price.

1. In the event no ticket is sold combining winners of all the races comprising the Pick N, the holders of tickets which correctly designate the most official winners, but less than N, in each of the N races comprising the Pick N shall be deemed winning ticket holders, and the aggregate number of winning tickets shall be divided into the net pool and be paid the same payoff price.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:149, R.S. 4:149.1 and R.S. 4:149.2.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Racing Commission, LR 28:1014 (May 2002), amended LR 34:

§11611. No Winning Ticket

A. In the event no winning ticket is sold that would require the distribution of the Pick N pool as mentioned in §11609, the association shall make a complete refund of the Pick N pool.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:149, R.S. 4:149.1 and R.S. 4:149.2.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Racing Commission, LR 28:1015 (May 2002), amended LR 34:

§11613. Cancelled Races

A. If for any reason one or more of the races comprising the Pick N is/are cancelled or declared "no race," the net pool shall be distributed as provided in §11609.

B. In the event the Pick N pool is opened and wagers accepted, and all N races comprising the Pick N are cancelled for any reason, the association shall make a complete refund of the Pick N pool.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:149, R.S. 4:149.1 and R.S. 4:149.2.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Racing Commission, LR 28:1015 (May 2002), amended LR 34:

§11615. Dead Heats

A. In the event of a dead heat for win between two or more horses in any Pick N race, all such horses in the dead heat for win shall be considered as winning horses in the race for the purpose of calculating the pool.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:149, R.S. 4:149.1 and R.S. 4:149.2.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Racing Commission, LR 28:1015 (May 2002), amended LR 34:

§11617. Closing Time; Disclosure

A. No pari-mutuel ticket for the Pick N pool shall be sold, exchanged or cancelled after the time of the closing of wagering in the first of the N races comprising the Pick N except for such refunds on Pick N tickets as required by this regulation, and no person shall disclose the number of tickets sold in the Pick N pool or the number or amount of tickets selecting winners of Pick N races until such time as the stewards have determined the last race comprising the Pick N to be official. At the conclusion of the race immediately prior to the last race of the Pick N, the association may display potential distributions to ticket holders depending upon the outcome of the last race of the Pick N.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:149, R.S. 4:149.1 and R.S. 4:149.2.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Racing Commission, LR 28:1015 (May 2002), amended LR 34:

§11619. Entry or Field

A. Those horses constituting an entry or a field as defined within the rules of racing shall race in any Pick N race as a single wagering interest for the purpose of the Pick N pari-mutuel pool calculations and payouts to the public. A scratch after wagering has begun of any part of an entry or field selection in such race shall have no effect with respect to the status of such entry and/or field as a viable wagering interest.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:149, R.S. 4:149.1 and R.S. 4:149.2.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Racing Commission, LR 28:1015 (May 2002), amended LR 34:

§11621. Scratches and Non-Starters

A. At anytime after wagering begins on the Pick N pool should a horse, entire betting entry or field be scratched, excused or declared a non-starter in any Pick N race, no further tickets selecting such horse, betting entry or field

shall be issued, and wagers upon such horse, betting entry or field, for purposes of the Pick N pool shall be deemed wagers upon the horse, betting entry or field upon which the most money has been wagered in the win pool at the close of win pool betting for such race. In the event of a money tie in the win pool, the tied horse, betting entry or field with the lowest running number, as designated by the official racing program, shall be designated as the favorite for substitution purposes. For the purpose of this Section, when horses are prevented from starting by any malfunction of the starting gate itself they shall be considered as having been excused by the stewards. After close of betting, there shall be no refund, except as provided in §11611 or §11613.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:149, R.S. 4:149.1 and R.S. 4:149.2.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Racing Commission, LR 28:1015 (May 2002), amended LR 34:

§11623. Display

A. This rule shall be prominently displayed in the betting area of the association conducting the Pick N.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:149, R.S. 4:149.1 and R.S. 4:149.2.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Racing Commission, LR 28:1015 (May 2002), amended LR 34:

§11625. Unforeseen Circumstances

A. Should circumstances occur which are not foreseen in this rule, questions arising thereby shall be resolved by the association and/or commission in accordance with general pari-mutuel practices. Decisions regarding distribution of the Pick N pools shall be final.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:149, R.S. 4:149.1 and R.S. 4:149.2.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Racing Commission, LR 28:1015 (May 2002), amended LR 34:

Charles A. Gardiner III
Executive Director

0801#011

EMERGENCY RULE

**Department of Health and Hospitals
Office of Public Health**

Genetic Diseases—Newborn Heel Stick Screening
(LAC 48:V.6303)

Under the authority of R.S. 40:5 and 40:1299 et seq., and in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Health and Hospitals, Office of Public Health proposes to amend LAC 48:V.6303, A., C., D., and G, effective January 20, 2008.

The proposed Rule updates the newborn screening panel as listed in LAC 48:V.6303 to assure it is consistent with Act 2006, No. 754, which required screening for an additional 17 metabolic disorders, congenital adrenal hyperplasia and cystic fibrosis. The proposed Rule also includes other requirements necessary for ensuring proper laboratory testing, follow-up and reporting.

The proposed Rule should have an overall positive impact on the stability, authority, functioning, behavior and personal

responsibility of the family unit as the Rule will reflect the pertaining legislation that requires all Louisiana newborns to be screened for these additional genetic diseases. If untreated, all of these additional diseases cause severe disability and the complications with some of them can be fatal.

Title 48

PUBLIC HEALTH—GENERAL

Part V. Public Health Services

Subpart 19. Genetic Diseases Services

Chapter 63. Newborn Heel Stick Screening

§6303. Purpose, Scope Methodology

A. R.S. 40:1299.1.2.3, requires physicians to test Louisiana newborns for the disorders listed below along with the abbreviations used by the American College of Medical Genetics (ACMG).

1. Disorders of amino acid metabolism:
 - a. Phenylketonuria (PKU);
 - b. Maple Syrup Urine Disease (MSUD);
 - c. Homocystinuria (HCY);
 - d. Citrullinemia (CIT);
 - e. Argininosuccinic Aciduria (ASA);
 - f. Tyrosinemia type I (TYR I).
2. Disorders of fatty acid metabolism:
 - a. Medium Chain Acyl-CoA dehydrogenase Deficiency (MCAD);
 - b. Trifunctional protein deficiency (TFP);
 - c. Very Long-Chain Acyl-CoA Dehydrogenase Deficiency (VLCAD);
 - d. Carnitine Uptake Defect (CUD);
 - e. Long Chain-3-Hydroxy Acyl-CoA Dehydrogenase Deficiency (LCHAD).
3. Disorders of organic acid metabolism:
 - a. Isovaleric Acidemia (IVA);
 - b. Methylmalonic Acidemia (MUT),(CBL A, B);
 - c. Glutaric Acidemia Type 1 (GA1);
 - d. Propionic Aciduria (PROP);
 - e. 3-Hydroxy-3-Methylglutaryl-CoA Lyase (HMG);
 - f. Multiple Carboxylase Deficiency (MCD);
 - g. β-Ketothiolase Deficiency (BKT);
 - h. 3-Methylcrotonyl CoA Carboxylase Deficiency (3MCC).
4. Other metabolic disorders:
 - a. Biotinidase Deficiency (BIOT);
 - b. Galactosemia (GALT).
5. Endocrine disorders:
 - a. Congenital Hypothyroidism (CH);
 - b. Congenital Adrenal Hyperplasia (CAH).
6. Hemoglobinopathies (Sickle Cell diseases):
 - a. SS disease (Sickle Cell Anemia) (Hb SS);
 - b. SC disease (Hb SC);
 - c. S/Beta Thalassemia (Hb S/βTH);
 - d. Other sickling diseases.
7. Pulmonary disorders:
 - a. Cystic Fibrosis (CF).

B. ...

C. Policy for Pre-Discharge, Repeat Screening and Education to Parents on Repeat Screening

1. Pre-Discharge Screening. All hospitals that have maternity units shall institute and maintain a policy of screening all newborns before discharge regardless of their

length of stay in the hospital. Newborns remaining in the hospital for an extended period should be screened initially no later than seven days after birth.

2. Repeat Screening for Specimens Collected before 24 Hours. There is a greater risk of false negative results for specimens collected from babies younger than 24 hours of age. Therefore, newborns screened prior to 24 hours of age must be rescreened at the first medical visit, preferably between one and two weeks of age, but no later than the third week of life. Repeat screening should be arranged by the primary pediatrician; however, it may be done by any primary healthcare provider or clinical facility qualified to perform newborn screening specimen collection.

3. Education to Parents on Repeat Screening. To ensure that newborns who need rescreening (due to initial unsatisfactory specimen or an initial collection performed on a baby less than 24 hours old) actually receive the repeat test, hospitals with maternity units must establish a system for disseminating information to parents about the importance of rescreening.

D. Notification of Screening Results

1. The Genetic Diseases Program follow-up staff notify the appropriate medical provider of the positive screening result by telephone. Otherwise, submitters should receive the result slip from the State Public Health Laboratory within two weeks after collection. Results are also available to submitters 24 hours a day, 365 days a year through the Voice Response System with Fax (VRS) which is accessed by using a touch tone telephone. Information on using VRS can be obtained by calling the Genetic Diseases Program Office at (504) 219-4413. If results are not available, medical providers may fax in their requests to the following numbers: (504) 219-4694 (Public Health Biochemistry Laboratory) or (504) 219-4452 (Genetics Office). To assist the pediatrician's office in the retrieval of the results on the initial specimen of the infant at the first medical visit, the phlebotomist or nurse collecting the initial specimen should tear off the blue carbon of the Lab-10 form and give this to the parent. The parent should be instructed to bring this copy to the first medical visit.

E. - F. ...

G. Acceptable Newborn Screening Testing Methodologies and Procedures for Medical Providers Not Using the State Laboratory. Laboratories performing or intending to perform the state mandated newborn screening battery on specimens collected on Louisiana newborns must meet the conditions specified below pursuant to R.S. 40:1299.1.

1. The testing battery must include testing for the disorders listed in Subpart A above.

2. - 4. ...

5. Only the following testing methodologies are acceptable without prior approval.

Disease	Testing Methodology
Disorders of Amino Acid Metabolism	Tandem Mass Spectrometry (MS/MS)
Disorders of Fatty Acid Metabolism	
Disorders of Organic Acid Metabolism (Specific disorders include those as listed under part A)	

Disease	Testing Methodology
Biotinidase Deficiency	Qualitative or Quantitative Enzymatic Colorimetric or Fluorometric
Galactosemia	Galt enzyme assay Total Galactose
Hemoglobinopathies (Sickle Cell Diseases)	Cellulose acetate/citrate agar Capillary isoelectric focusing (CIEF) Gel isoelectric focusing (IEF) High Pressure Liquid Chromatography (HPLC) DNA Mutational Analysis Sickle Dex - NOT Acceptable Controls must include: F, A, S, C, D, E If controls for hemoglobins D and E are not included in the 1st tier testing methodology, then the 2 nd tier testing must be able to identify the presence of these hemoglobins. Result Reporting: by phenotype Positive/negative is NOT acceptable
Congenital Hypothyroidism	Radioimmunoassay (RIA), Fluorescent Immunoassay (FIA), Enzyme Immunoassay (EIA) methods for T4 and/or Thyroid Stimulating Hormone (TSH) which have been calibrated for neonates
Congenital Adrenal Hyperplasia	17 hydroxyprogesterone (17OHP)
Cystic Fibrosis	Primary: Immunoreactive Trypsinogen; Second Tier: DNA Qualitative Sweat Conductivity Test is NOT acceptable as a primary screening methodology. Confirmatory Test Methodologies: Quantitative Pilocarpine Iontophoresis Sweat Chloride Test Qualitative Sweat Conductivity Test is NOT recommended.
New Food and Drug Administration approved methodologies may be used if found to be acceptable by the Genetic Diseases Program. Approval should be requested in writing 60 days before the intended date of implementation (see Genetic Diseases Program mailing address below). Requests for approvals will be based on documentation of FDA approval and an in-house validation study of said methodology.	

6. - 7. ...

8. Mandatory Reporting of Positive Test Results Indicating Disease

a. To ensure appropriate and timely follow-up, positive results must be reported, along with patient demographic information as specified below to the Genetic Diseases Program Office by fax at (504) 219-4452. Receipt of faxed results must be verified by call to the Genetics Office at (504) 219-4413.

b. Described below are specific time deadlines after data reduction and interpretation for reporting positive results indicating probable disease to the Genetics Office. Laboratories must make arrangements with the Genetics Office for reporting after hours, weekends and holidays for positive results from tandem mass spectrometry and the assays for galactosemia, congenital adrenal hyperplasia and congenital hypothyroidism. Notification of presumptive positive results for biotinidase deficiency, sickle cell disease and cystic fibrosis will be made at the beginning of the next business day.

i. Metabolic disorders identified by tandem mass spectrometry and for galactosemia—report results by 2 hours.

ii. Biotinidase Deficiency—report results within 24 hours.

iii. Sickle Cell Disease—report results of FS, FSC, FSA from initial specimens within 24 hours.

iv. Congenital Hypothyroidism—report within 24 hours.

v. Congenital Adrenal Hyperplasia—report within 2 hours.

vi. Cystic Fibrosis—report within 24 hours.

8.c. - 11. ...

H. The Newborn Heel Stick Screening Policy for Result Reporting and Repeat Screening Post Transfusion

1. Whenever possible, a specimen should be collected prior to transfusion.

2. Repeat testing recommended: 3 days after transfusion and 90 days after last transfusion.

3. If the specimen was not collected before transfusion, the laboratory reporting the results to the submitter must indicate that transfusion may alter all newborn screening results and include the above times for repeat screening.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1299, et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Preventive and Public Health Services, LR 13:246 (April 1987), amended by the Department of Health and Hospitals, Office of Public Health, LR 17:378 (April 1991), LR 18:1131 (October 1992), LR 20:1386 (December 1994), LR 23:301 (March 1997), LR 27:545 (April 2001), LR 29:1490 (August 2003), LR 32:248 (February 2006), LR 34:

Roxane A. Townsend, M.D.
Secretary

0801#083

DECLARATION OF EMERGENCY

**Department of Health and Hospitals
Office of the Secretary
Bureau of Health Services Financing**

Disproportionate Share Hospital Payment Methodologies
Distinct Part Psychiatric Unit Expansions
(LAC 50:V.315)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts LAC 50:V.315 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing promulgated an Emergency Rule to repeal and replace all Rules governing disproportionate share hospital (DSH) payment methodologies (*Louisiana Register*, Volume 31, Number 6). In compliance with Act 182 and Act 323 of the 2005 Regular Session of the Louisiana Legislature, the June 26, 2005 Emergency Rule was amended to establish provisions for provider fees levied on hospitals as a result of the Healthcare

Affordability Act (*Louisiana Register*, Volume 31, Number 7) and to revise the definition of a small rural hospital (*Louisiana Register*, Volume 31, Number 9). The June 26, 2005 Emergency Rule was subsequently amended to incorporate the provisions of the July 1, 2005 and September 1, 2005 Emergency Rules (*Louisiana Register*, Volume 31, Number 10).

The October 25, 2005 Emergency Rule was amended to: 1) change the provisions governing DSH payments to other uninsured hospitals; 2) establish provisions governing payments to private community hospitals for services rendered to displaced, uninsured citizens from mandatory evacuation parishes affected by Hurricanes Katrina and Rita; 3) change the provisions governing DSH payments to high uninsured hospitals and to establish provisions governing payments to public community hospitals (*Louisiana Register*, Volume 32, Number 7); and 4) revise the provisions governing disproportionate share hospital payments to non-rural community hospitals as a result of the allocation of additional funds by the Legislature during the 2006 Regular Session (*Louisiana Register*, Volume 32, Number 9). The department subsequently amended the October 25, 2005 Emergency Rule to incorporate the provisions of the June 28, 2006 and September 15, 2006 Emergency Rules (*Louisiana Register*, Volume 32, Number 10) and to revise the definition of a small rural hospital (*Louisiana Register*, Volume 33, Number 1). The department amended the October 23, 2006 Emergency Rule to incorporate the provisions of the December 18, 2006 Emergency Rule (*Louisiana Register*, Volume 33, Number 2). In compliance with the directives of Act 6 and Act 18 of the 2007 Regular Session of the Louisiana Legislature, the department amended the February 21, 2007 Emergency Rule to: 1) revise the DSH qualifications and reimbursement methodologies for the state fiscal year 2007 payment to non-rural community hospitals (*Louisiana Register*, Volume 33, Number 7); 2) repeal the provisions of the June 27, 2007 Emergency Rule governing DSH payments to public and private community hospitals; and 3) repeal and replace the provisions governing non-rural community hospitals (*Louisiana Register*, Volume 33, Number 10).

Act 18 also authorized expenditures to the Medical Vendor Program for disproportionate share payments to non-state acute care hospitals that expand their distinct part psychiatric unit beds and enter into an agreement with the Office of Mental Health (OMH) to provide inpatient psychiatric services. In compliance with Act 18, the department now proposes to amend the October 20, 2007 Emergency Rule to adopt provisions for the reimbursement of uncompensated care costs for psychiatric services provided by non-state acute care hospitals that expand their distinct part psychiatric units and enter into an agreement with OMH. It is estimated that the implementation of this proposed Rule will increase revenues by approximately \$7,000,000 for state fiscal year 2007-08. This action is being taken to avoid imminent peril to the health and welfare of Louisiana citizens who are in critical need of inpatient psychiatric services.

Effective January 1, 2008, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amends the provisions governing disproportionate share hospital payments to non-state acute care hospitals that expand their distinct part psychiatric units.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part V. Medical Assistance Program—Hospital Services

Subpart 1. Inpatient Hospitals

Chapter 3. Disproportionate Share Hospital Payment Methodologies

§315. Distinct Part Psychiatric Unit Expansions

A. Effective for dates of service on or after January 1, 2008, Medicaid enrolled non-state acute care hospitals that expand their distinct part psychiatric unit beds, and sign an addendum to the Provider Enrollment form (PE-50) by March 1, 2008 with the Department of Health and Hospitals, Office of Mental Health, shall be reimbursed for their net uncompensated care costs for services provided to adult patients, age 18 and over, who occupy the additional beds.

1. The net uncompensated care cost is the Medicaid shortfall plus the cost of treating the uninsured.

B. The amount appropriated for this pool in SFY 2008 is \$7,000,000. If the net uncompensated care costs of all hospitals qualifying for this payment exceeds \$7,000,000, payment will be the lesser of each qualifying hospital's net uncompensated care costs or its pro rata share of the pool calculated by dividing its net uncompensated care costs by the total of the net uncompensated care costs for all hospitals qualifying for this payment and multiplying by \$7,000,000.

C. Qualifying hospitals must submit costs and patient specific data in a format specified by the department.

1. Cost and lengths of stay will be reviewed for reasonableness before payments are made.

D. Payments shall be made on a quarterly basis.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:

Implementation of the provisions of this Rule shall be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services.

Interested persons may submit written comments to Jerry Phillips at Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to all inquiries regarding this Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

Roxane A. Townsend, M.D.
Secretary

0801#022

DECLARATION OF EMERGENCY

Department of Health and Hospitals
Office of the Secretary
Bureau of Health Services Financing

Federally Qualified Health Centers—Reimbursement
Methodology—Payment for Adjunct Services
(LAC 50:XI.10703)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing proposes to adopt LAC 50:XI.10703 in the Medical Assistance Program

as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing established provisions governing provider enrollment and clarified the provisions governing services and the reimbursement methodology for federally qualified health centers (*Louisiana Register*, Volume 32, Number 10). Act 18 of the 2007 Regular Session of the Louisiana Legislature authorized expenditures to the Medical Vendor Program to reimburse professional services providers, including federally qualified health centers (FQHCs), who provide and report services rendered in settings other than hospital emergency departments during evening, weekend or holiday hours.

In compliance with the directives of Act 18, the department adopted provisions to allow for the reimbursement of an additional payment to FQHCs for professional services provided in settings other than hospital emergency departments during evening, weekend or holiday hours (*Louisiana Register*, Volume 33, Number 10). This Emergency Rule is being promulgated to continue the provisions of the October 20, 2007 Emergency Rule. This action is being taken to promote the health and welfare of Medicaid recipients by ensuring recipient access to primary and urgent care that can be acquired in a setting other than hospital emergency departments.

Effective February 18, 2008, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amends the reimbursement methodology governing FQHCs to adopt provisions establishing reimbursement for the payment of adjunct services when professional services are provided in a setting other than hospital emergency departments during evening, weekend or holiday hours.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part XI. Clinic Services

Subpart 13. Federally Qualified Health Centers

Chapter 107. Reimbursement Methodology

§10703. Payment for Adjunct Services

A. Effective for dates of service on or after October 20, 2007, the Medicaid Program shall provide reimbursement for the payment of adjunct services in addition to the encounter rate paid for professional services provided by federally qualified health centers (FQHCs) when these professional services are rendered during evening, weekend or holiday hours.

1. A payment for adjunct services is not allowed when the encounter is for dental services only.

B. The reimbursement for adjunct services is a flat fee in addition to the reimbursement for the associated office encounter.

C. Reimbursement is limited to services rendered between the hours of 5 p.m. and 8 a.m., Monday through Friday, on weekends and State legal holidays. Documentation relative to this reimbursement must include the time that the services were rendered.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:

Implementation of the provisions of this proposed Rule shall be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services.

Interested persons may submit written comments to Jerry Phillips, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, Louisiana 70821-9030. He is responsible for responding to inquiries regarding this Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

Roxane A. Townsend, M.D.
Secretary

0801#077

DECLARATION OF EMERGENCY

Department of Health and Hospitals Office of the Secretary Bureau of Health Services Financing

Hospital Services—Inpatient Hospitals
Disproportionate Share Hospital Payment Methodologies
(LAC 50:V.Chapter 25-27)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing repromulgates the provisions governing disproportionate share hospital (DSH) payment methodologies for inpatient hospitals in LAC 50:V.Chapters 25-27 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing promulgated an Emergency Rule to repeal and replace all Rules governing disproportionate share hospital (DSH) payment methodologies (*Louisiana Register*, Volume 31, Number 6). In compliance with Act 182 and Act 323 of the 2005 Regular Session, the June 20, 2005 Emergency Rule was amended to establish provisions for provider fees levied on hospitals as a result of the Healthcare Affordability Act (*Louisiana Register*, Volume 31, Number 7) and to revise the definition of a small rural hospital (*Louisiana Register*, Volume 31, Number 9). The June 20, 2005 Rule was subsequently amended to incorporate the provisions of the July 1, 2005 and September 1, 2005 Emergency Rules (*Louisiana Register*, Volume 31, Number 10).

The October 25, 2005 Emergency Rule was amended to: 1) change the provisions governing DSH payments to other uninsured hospitals; 2) establish provisions governing payments to private community hospitals for services

rendered to displaced, uninsured citizens from mandatory evacuation parishes affected by Hurricanes Katrina and Rita; 3) change the provisions governing DSH payments to high uninsured hospitals and to establish provisions governing payments to public community hospitals (*Louisiana Register*, Volume 32, Number 7); and 4) revise the provisions governing disproportionate share hospital payments to non-rural community hospitals as a result of the allocation of additional funds by the Legislature during the 2006 Regular Session (*Louisiana Register*, Volume 32, Number 9). The department subsequently amended the October 25, 2005 Emergency Rule to incorporate the provisions of the June 28, 2006 and September 15, 2006 Emergency Rules (*Louisiana Register*, Volume 32, Number 10) and to revise the definition of a small rural hospital (*Louisiana Register*, Volume 33, Number 1). The department amended the October 23, 2006 Emergency Rule to incorporate the provisions of the December 18, 2006 Emergency Rule (*Louisiana Register*, Volume 33, Number 2). In compliance with the directives of Act 6 of the 2007 Regular Session of the Louisiana Legislature, the department amended the February 21, 2007 Emergency Rule to revise the DSH qualifications and reimbursement methodologies for the state fiscal year 2007 payment to non-rural community hospitals (*Louisiana Register*, Volume 33, Number 7).

Act 18 of the 2007 Regular Session of the Louisiana Legislature authorized expenditures to the Medical Vendor Program for disproportionate share payments to non-rural community hospitals for state fiscal year 2008. In compliance with the directives of Act 18, the department promulgated an Emergency Rule to repeal the provisions of the June 27, 2007 Emergency Rule governing DSH payments to public and private community hospitals, and to repeal and replace the provisions governing non-rural community hospitals (*Louisiana Register*, Volume 33, Number 10). The department now proposes to repromulgate the provisions of the October 20, 2007 Emergency Rule in LAC 50:V.Chapters 25-29. This action is being taken to enhance federal revenue.

Effective February 18, 2008, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts the following provisions governing disproportionate share hospital payments.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part V. Medical Assistance Program—Hospital Services

Subpart 3. Disproportionate Share Hospital Payments

Chapter 25. Disproportionate Share Hospital Payment Methodologies

§2501. General Provisions

A. The reimbursement methodology for inpatient hospital services incorporates a provision for an additional payment adjustment for hospitals serving a disproportionate share of low income patients.

B. The following provisions govern the disproportionate share hospital (DSH) payment methodologies for qualifying hospitals.

1. Total cumulative disproportionate share payments under any and all disproportionate share hospital payment methodologies shall not exceed the federal disproportionate share state allotment for Louisiana for each federal fiscal

year or the state appropriation for disproportionate share payments for each state fiscal year. The department shall make necessary downward adjustments to hospital's disproportionate share payments to remain within the federal disproportionate share allotment and the state disproportionate share appropriated amount.

2. Appropriate action including, but not limited to, deductions from DSH, Medicaid payments and cost report settlements shall be taken to recover any overpayments resulting from the use of erroneous data, or if it is determined upon audit that a hospital did not qualify.

3. DSH payments to a hospital determined under any of the methodologies described in this Subpart 3 shall not exceed the hospital's net uncompensated cost as defined in Chapter 27 or the disproportionate share limits as defined in Section 1923(g)(1)(A) of the Social Security Act for the state fiscal year to which the payment is applicable. Any Medicaid profit shall be used to offset the cost of treating the uninsured in determining the hospital specific DHH limits.

4. Qualification is based on the hospital's latest filed cost report and related uncompensated cost data as required by the department. Qualification for small rural hospitals is based on the latest filed cost report. Hospitals must file cost reports in accordance with Medicare deadlines, including extensions. Hospitals that fail to timely file Medicare cost reports and related uncompensated cost data will be assumed to be ineligible for disproportionate share payments. Only hospitals that return timely disproportionate share qualification documentation will be considered for disproportionate share payments. After the final payment during the state fiscal year has been issued, no adjustment will be given on DSH payments with the exception of public state-operated hospitals, even if subsequently submitted documentation demonstrates an increase in uncompensated care costs for the qualifying hospital. For hospitals with distinct part psychiatric units, qualification is based on the entire hospital's utilization.

5. Hospitals shall be notified by letter at least 60 days in advance of calculation of DSH payment to submit documentation required to establish DSH qualification. Only hospitals that timely return DSH qualification documentation will be considered for DSH payments. The required documents are:

- a. obstetrical qualification criteria;
- b. low income utilization revenue calculation;
- c. Medicaid cost report; and
- d. uncompensated cost calculation.

6. Hospitals and/or units which close or withdraw from the Medicaid Program shall become ineligible for further DSH pool payments for the remainder of the current DSH pool payment cycle and thereafter.

C. A hospital receiving DSH payments shall furnish emergency and non-emergency services to uninsured persons with family incomes less than or equal to 100 percent of the federal poverty level on an equal basis to insured patients.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:

§2503. Disproportionate Share Hospital Qualifications

A. In order to qualify as a disproportionate share hospital, a hospital must:

1. have at least two obstetricians who have staff privileges and who have agreed to provide obstetric services to individuals who are Medicaid eligible. In the case of a hospital located in a rural area (i.e., an area outside of a metropolitan statistical area), the term *obstetrician* includes any physician who has staff privileges at the hospital to perform nonemergency obstetric procedures; or

2. treat inpatients who are predominantly individuals under 18 years of age; or

3. be a hospital which did not offer nonemergency obstetric services to the general population as of December 22, 1987; and

4. have a utilization rate in excess of one or more of the following specified minimum utilization rates:

a. Medicaid utilization rate is a fraction (expressed as a percentage). The numerator is the hospital's number of Medicaid (Title XIX) inpatient days. The denominator is the total number of the hospital's inpatient days for a cost reporting period. Inpatient days include newborn and psychiatric days and exclude swing bed and skilled nursing days. Hospitals shall be deemed disproportionate share providers if their Medicaid utilization rates are in excess of the mean, plus one standard deviation of the Medicaid utilization rates for all hospitals in the state receiving payments; or

b. hospitals shall be deemed disproportionate share providers if their low-income utilization rates are in excess of 25 percent. Low-income utilization rate is the sum of:

i. the fraction (expressed as a percentage). The numerator is the sum (for the period) of the total Medicaid patient revenues plus the amount of the cash subsidies for patient services received directly from state and local governments. The denominator is the total amount of revenues of the hospital for patient services (including the amount of such cash subsidies) in the cost reporting period from the financial statements; and

ii. the fraction (expressed as a percentage). The numerator is the total amount of the hospital's charges for inpatient services which are attributable to charity (free) care in a period, less the portion of any cash subsidies as described in §2503.A.4.b.i in the period which are reasonably attributable to inpatient hospital services. The denominator is the total amount of the hospital's charges for inpatient hospital services in the period. For public providers furnishing inpatient services free of charge or at a nominal charge, this percentage shall not be less than zero. This numerator shall not include contractual allowances and discounts (other than for indigent patients ineligible for Medicaid), i.e., reductions in charges given to other third-party payers, such as HMOs, Medicare, or Blue Cross; nor charges attributable to Hill-Burton obligations. A hospital providing "free care" must submit its criteria and procedures for identifying patients who qualify for free care to the Bureau of Health Services Financing for approval. The policy for free care must be posted prominently and all patients must be advised of the availability of free care and the procedures for applying. Hospitals not in compliance with free care criteria will be subject to recoupment of DSH and Medicaid payments; or

5. effective November 3, 1997, be a small rural hospital as defined in §2705.A.2.a-h; or

6. effective September 15, 2006, be a non-rural community hospital as defined in §2701.A.; and

7. effective July 1, 1994, must also have a Medicaid inpatient utilization rate of at least 1 percent.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:

Chapter 27. Qualifying Hospitals

§2701. Non-Rural Community Hospitals

A. Definitions

Non-Rural Community Hospital—a non-state hospital that does not receive disproportionate share payments under any other qualification category. These hospitals may be either publicly or privately owned. In addition, psychiatric, rehabilitation and long term hospitals may qualify for this category.

B. DSH payments to a public, non-rural community hospital shall be calculated as follows.

1. Each qualifying public, non-rural community hospital shall certify to the Department of Health and Hospitals its uncompensated care costs. The basis of the certification shall be 100 percent of the hospital's allowable costs for these services, as determined by the most recently filed Medicare/Medicaid cost report. The certification shall be submitted in a form satisfactory to the department no later than October 1 of each fiscal year. The department will claim the federal share for these certified public expenditures. The department's subsequent reimbursement to the hospital shall be in accordance with the qualifying criteria and payment methodology for non-rural community hospitals included in Act 18 and may be more or less than the federal share so claimed. Qualifying public, non-rural community hospitals that fail to make such certifications by October 1 may not receive Title XIX claim payments or any disproportionate share payments until the department receives the required certifications.

C. Private, non-rural community hospitals located in the New Orleans and Lake Charles Metropolitan Statistical Areas (MSA) shall be reimbursed as follows:

1. if the hospital's qualifying uninsured cost is less than 3.5 percent of total hospital cost, the payment shall be 30 percent of qualifying uninsured cost;

2. if the hospital's qualifying uninsured cost is equal to or greater than 3.5 percent of the total hospital cost, but less than 6.5 percent, the payment shall be 50 percent of qualifying uninsured cost;

3. if the hospital's qualifying uninsured cost is equal to or greater than 6.5 percent of total hospital cost, but less than or equal to 8 percent, the payment shall be 80 percent of qualifying uninsured cost;

4. if the hospital's qualifying uninsured cost is greater than 8 percent of total hospital cost, the payment shall be 90 percent of qualifying uninsured cost for the portion in excess of 8 percent and 80 percent of qualifying uninsured cost for the portion equal to 8 percent of total hospital cost.

D. Private, non-rural community hospitals located in all other parts of the state shall be reimbursed as follows:

1. if the hospital's qualifying uninsured cost is less than 3.5 percent of total hospital cost, no payment shall be made;

2. if the hospital's qualifying uninsured cost is equal to or greater than 3.5 percent of total hospital cost, but less than 6.5 percent, the payment shall be 50 percent of an amount equal to the difference between the total qualifying uninsured cost as a percent of total hospital cost and 3.5 percent of total hospital cost;

3. if the hospital's qualifying uninsured cost is equal to or greater than 6.5 percent of total hospital cost, but less than or equal to 8 percent, the payment shall be 80 percent of an amount equal to the difference between the total qualifying uninsured cost as a percent of total hospital cost and 3.5 percent of total hospital cost;

4. if the hospital's qualifying uninsured cost is greater than 8 percent of total hospital cost, the payment shall be 90 percent of qualifying uninsured cost for the portion in excess of 8 percent of total hospital cost and 80 percent of an amount equal to 4.5 percent of total hospital cost;

5. qualifying uninsured cost as used for this distribution shall mean the hospital's total charges for care provided to uninsured patients multiplied by the hospital's appropriate cost-to-charge ratio for the applicable cost report period.

E. The department shall determine each qualifying hospital's uninsured percentage on a hospital-wide basis utilizing charges for dates of service from July 1, 2006 through June 30, 2007.

F. Hospitals shall submit supporting patient specific data in a format specified by the department, reports on their efforts to collect reimbursement for medical services from patients to reduce gross uninsured costs and their most current year-end financial statements. Those hospitals that fail to provide such statements shall receive no payments and any payment previously made shall be refunded to the department. The deadline for submission of data used to determine qualification and the initial payment is November 20, 2007. Submitted hospital charge data must agree with the hospital's monthly revenue and usage reports which reconcile to the monthly and annual financial statements. The submitted data shall be subject to verification by the department before DSH payments are made.

G. In the event that the total payments calculated for all recipient hospitals are anticipated to exceed the total amount appropriated, the department shall reduce payments on a pro rata basis in order to achieve a total cost that is not in excess of the amounts appropriated for this purpose. The \$87,000,000 appropriation for the non-rural community hospital pool shall be effective only for state fiscal year 2008 and distributions from the pool shall be considered nonrecurring.

H. Of the total appropriation for the non-rural community hospital pool, \$7,000,000 shall be allocated to public and private non-rural community hospitals with a distinct part psychiatric unit.

1. To qualify for this payment, hospitals must be a public or private non-rural community hospital, as defined in §2701.A, that has a Medicaid enrolled distinct part psychiatric unit with uninsured cost of 3.5 percent or greater, as defined in §2701.D.5.

2. Payment shall be calculated by dividing each qualifying hospital's distinct part psychiatric unit's uninsured days by all qualifying psychiatric unit qualifying uninsured days and multiplying by \$7,000,000.

I. The DSH payment shall be made as an annual lump sum payment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:

§2703. Federally Mandated Statutory Hospitals Not Included In Any Other Group

A. Definition

Federally Mandated Statutory Hospital Not Included in Any Other Group—a hospital that meets the federal DSH statutory utilization requirements in §2503.A.4.a-b.ii and is not included in any other qualifying group.

B. DSH payments to individual federally mandated statutory hospitals shall be based on actual paid Medicaid days for a six-month period ending on the last day of the last month of that period, but reported at least 30 days preceding the date of payment. Annualization of days for the purposes of the Medicaid days pool is not permitted. The amount will be obtained by DHH from a report of paid Medicaid days by service date.

C. Disproportionate share payments for individual hospitals in this group shall be calculated based on the product of the ratio determined by:

1. dividing each qualifying hospital's actual paid Medicaid inpatient days for a six-month period ending on the last day of the month preceding the date of payment (which will be obtained by the department from a report of paid Medicaid days by service date) by the total Medicaid inpatient days obtained from the same report of all qualified hospitals included in this group. Total Medicaid inpatient days include Medicaid nursery days but do not include skilled nursing facility or swing-bed days; then

2. multiplying by the state disproportionate share appropriated amount for this pool of hospitals.

D. A pro rata decrease necessitated by conditions specified in §2501.B.1-6 for hospitals in this group will be calculated based on the ratio determined by:

1. dividing the hospitals' Medicaid days by the Medicaid days for all qualifying hospitals in this group; then

2. multiplying by the amount of disproportionate share payments calculated in excess of the federal disproportionate share allotment or the state disproportionate share appropriated amount.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:

§2705. Small Rural Hospitals

A. Definitions

Net Uncompensated Cost—the cost of furnishing inpatient and outpatient hospital services, net of Medicare costs, Medicaid payments (excluding disproportionate share payments), costs associated with patients who have insurance for services provided, private payer payments, and

all other inpatient and outpatient payments received from patients. Any uncompensated costs of providing health care services in a rural health clinic licensed as part of a small rural hospital as defined below shall be considered outpatient hospital services in the calculation of uncompensated costs.

Small Rural Hospital—a hospital (excluding a long-term care hospital, rehabilitation hospital, or freestanding psychiatric hospital but including distinct part psychiatric units) that meets the following criteria:

a. had no more than 60 hospital beds as of July 1, 1994 and is located in a parish with a population of less than 50,000 or in a municipality with a population of less than 20,000; or

b. meets the qualifications of a sole community hospital under 42 CFR §412.92(a), or:

i. met the qualifications of a sole community hospital as of June 30, 2005, and subsequently converts to critical access hospital status; or

c. had no more than 60 hospital beds as of July 1, 1999, and is located in a parish with a population of less than 17,000 as measured by the 1990 census; or

d. had no more than 60 hospital beds as of July 1, 1997, and is a publicly-owned and operated hospital that is located in either a parish with a population of less than 50,000 or a municipality with a population of less than 20,000; or

e. had no more than 60 hospital beds as of June 30, 2000, and is located in a municipality with a population, as measured by the 1990 census, of less than 20,000; or

f. had no more than 60 beds as of July 1, 1997, and is located in a parish with a population, as measured by the 1990 and 2000 census, of less than 50,000; or

g. was a hospital facility licensed by the department that had no more than 60 hospital beds as of July 1, 1994, which hospital facility:

i. has been in continuous operation since July 1, 1994;

ii. is currently operating under a license issued by the department; and

iii. is located in a parish with a population, as measured by the 1990 census, of less than 50,000; or

h. has no more than 60 hospital beds or has notified the department as of March 7, 2002, of its intent to reduce its number of hospital beds to no more than 60, and is located in a municipality with a population of less than 13,000 and in a parish with a population of less than 32,000 as measured by the 2000 census, or:

i. has no more than 60 hospital beds or has notified DHH as of December 31, 2003, of its intent to reduce its number of hospital beds to no more than 60 and is located:

i. as measured by the 2000 census, in a municipality with a population of less than 7,000;

ii. as measured by the 2000 census, in a parish with a population of less than 53,000; and

iii. within 10 miles of a United States military base; or

j. has no more than 60 hospital beds as of September 26, 2002, and is located:

i. as measured by the 2000 census, in a municipality with a population of less than 10,000; and

ii. as measured by the 2000 census, in a parish with a population of less than 33,000; or

k. has no more than 60 hospital beds as of January 1, 2003, and is located:

i. as measured by the 2000 census, in a municipality with a population of less than 11,000; and

ii. as measured by the 2000 census, in a parish with a population of less than 90,000; or

l. has no more than 40 hospital beds as of January 1, 2005, and is located:

i. in a municipality with a population of less than 3,100; and

ii. in a parish with a population of less than 15,800 as measured by the 2000 census.

B. Payment based on uncompensated cost for qualifying small rural hospitals shall be in accordance with the following two pools.

1. *Public (Nonstate) Small Rural Hospitals*—small rural hospitals as defined in §2705.A.2 which are owned by a local government.

2. *Private Small Rural Hospitals*—small rural hospitals as defined in §2705.A.2 that are privately owned.

C. Payment to hospitals included in §2705.B.1-2 is equal to each qualifying rural hospital's pro rata share of uncompensated cost for all hospitals meeting these criteria for the latest filed cost report multiplied by the amount set for each pool. If the cost reporting period is not a full period (12 months), actual uncompensated cost data from the previous cost reporting period may be used on a pro rata basis to equate a full year.

D. Pro Rata Decrease

1. A pro rata decrease necessitated by conditions specified in §2501.B.1-6 for rural hospitals described in this §311 will be calculated using the ratio determined by:

a. dividing the qualifying rural hospital's uncompensated costs by the uncompensated costs for all rural hospitals in §2705; then

b. multiplying by the amount of disproportionate share payments calculated in excess of the federal DSH allotment or the state DSH appropriated amount.

2. No additional payments shall be made after the final payment is disbursed by the department for the state fiscal year. Recoupment shall be initiated upon completion of an audit if it is determined that the actual uncompensated care costs for the state fiscal year for which the payment is applicable is less than the actual amount paid.

E. Qualifying hospitals must meet the definition for a small rural hospital contained in §2705.A.2. Qualifying hospitals must maintain a log documenting the provision of uninsured care as directed by the department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:

§2707. Public State-Operated Hospitals

A. Definitions

Net Uncompensated Cost—the cost of furnishing inpatient and outpatient hospital services, net of Medicare costs, Medicaid payments (excluding disproportionate share payments), costs associated with patients who have insurance for services provided, private payer payments, and

all other inpatient and outpatient payments received from patients.

Public State-Operated Hospital—a hospital that is owned or operated by the state of Louisiana.

B. DSH payments to individual public state-owned or operated hospitals shall be up to 100 percent of the hospital's net uncompensated costs. Final payment will be based on the uncompensated cost data per the audited cost report for the period(s) covering the state fiscal year.

C. In the event that it is necessary to reduce the amount of disproportionate share payments to remain within the federal disproportionate share allotment, the department shall calculate a pro rata decrease for each public state-owned or operated hospital based on the ratio determined by:

1. dividing that hospital's uncompensated cost by the total uncompensated cost for all qualifying public state-owned or operated hospitals during the state fiscal year; then
2. multiplying by the amount of disproportionate share payments calculated in excess of the federal disproportionate allotment.

D. It is mandatory that hospitals seek all third party payments including Medicare, Medicaid and other third party carriers and payments from patients. Hospitals must certify that excluded from net uncompensated cost are any costs for the care of persons eligible for Medicaid at the time of registration. Acute hospitals must maintain a log documenting the provision of uninsured care as directed by the department. Hospitals must adjust uninsured charges to reflect retroactive Medicaid eligibility determination. Patient specific data is required after July 1, 2003. Hospitals shall annually submit:

1. an attestation that patients whose care is included in the hospitals' net uncompensated cost are not Medicaid eligible at the time of registration; and
2. supporting patient-specific demographic data that does not identify individuals, but is sufficient for audit of the hospitals' compliance with the Medicaid ineligibility requirement as required by the department, including:
 - a. patient age;
 - b. family size;
 - c. number of dependent children; and
 - d. household income.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:

Implementation of the provisions of this Rule shall be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services.

Interested persons may submit written comments to Jerry Phillips, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to all inquiries regarding this Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

Roxane A. Townsend, M.D.
Secretary

0801#081

DECLARATION OF EMERGENCY

Department of Health and Hospitals Office of the Secretary Bureau of Health Services Financing

Inpatient Hospital Services—Non-Rural, Non-State
Hospitals—Distinct Part Psychiatric Unit Expansions
(LAC 50:V.915)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts LAC 50:V.915 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopted provisions governing Medicaid reimbursement of inpatient psychiatric services provided by distinct part psychiatric units in acute care general hospitals (*Louisiana Register*, Volume 20, Number 1).

Act 18 of the 2007 Regular Session of the Louisiana Legislature authorized expenditures to the Medical Vendor Program for non-state acute care hospitals that expand their distinct part psychiatric unit beds and enter into an agreement with the Office of Mental Health (OMH) to provide inpatient psychiatric services. In compliance with Act 18, the department now proposes to amend the January 20, 1994 Rule governing inpatient psychiatric services to allow acute care hospitals that enter into an agreement with OMH to expand their distinct part psychiatric unit beds and receive Medicaid reimbursement for the patients who occupy the additional beds. It is estimated that the implementation of this proposed Rule will increase expenditures in the Medicaid Program by approximately \$3,000,000 for state fiscal year 2007-08. This action is being taken to avoid imminent peril to the health and welfare of Louisiana citizens who are in critical need of inpatient psychiatric services.

Effective January 1, 2008, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amends the provisions governing inpatient psychiatric services to allow non-state acute care hospitals to expand their distinct part psychiatric units.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part V. Medical Assistance Program—Hospital Services

Subpart 1. Inpatient Hospitals

Chapter 9. Non-Rural, Non-State Hospitals

§915. Distinct Part Psychiatric Units

A. Changes in the Size of Distinct Part Psychiatric Units. For the purposes of Medicaid reimbursement, the number of beds and square footage of each distinct part psychiatric unit will remain the same throughout the cost reporting period. Any changes in the number of beds or square footage

considered to be a part of a distinct part psychiatric unit may be made only at the start of a cost reporting period. Verification of these changes will be completed during the Medicaid agency's on-site survey at least 60 days prior, but no more than 90 days prior, to the end of the hospital's current cost reporting period with other information necessary for determining recognition as a distinct part psychiatric unit.

1. Exception. Effective for dates of service on or after January 1, 2008, a Medicaid enrolled non-state acute care hospital that signs an addendum to the Provider Enrollment form (PE-50) by March 1, 2008 with the Department of Health and Hospitals, Office of Mental Health may make a one-time increase in its number of beds with a resulting increase in the square footage of its current distinct part psychiatric unit or a one-time opening of a new distinct part psychiatric unit.

a. This increase or opening of a new unit will not be recognized, for Medicare purposes, until the beginning of the next cost reporting period. At the next cost reporting period, the hospital must meet the Medicare prospective payment system (PPS) exemption criteria and enroll as a Medicare PPS excluded distinct part psychiatric unit.

b. At the time of any expansion or opening of a new distinct part psychiatric unit, the provider must provide a written attestation that they meet all Medicare PPS rate exemption criteria.

B. Changes in the Status of Hospital Units. The status of each hospital unit is determined at the beginning of each cost reporting period and is effective for the entire cost reporting period. Any changes in the status of a unit are made only at the start of a cost reporting period.

1. Exception. In accordance with §915.A.-A.1a., a facility may take advantage of a one-time increase in its number of beds. If a facility does utilize the one-time increase provisions, the changes shall be effective for the remainder of the cost reporting. Any further changes can only be made at the start of the next cost reporting period.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 20:49 (January 1994), amended LR 34:

Implementation of the provisions of this Rule shall be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services.

Interested persons may submit written comments to Jerry Phillips at Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to all inquiries regarding this Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

Roxane A. Townsend, M.D.
Secretary

0801#021

DECLARATION OF EMERGENCY

Department of Health and Hospitals Office of the Secretary Bureau of Health Services Financing

Inpatient Hospital Services—Non-Rural,
Non-State Hospitals—Supplemental Payments
(LAC 50:V.901, 953 and 1331)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts LAC 50:V.901, 953 and 1331 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopted a Rule in June of 1994 which established the prospective reimbursement methodology for inpatient services provided in private (non-state) acute care general hospitals (*Louisiana Register*, Volume 20, Number 6). A Rule was subsequently adopted to revise the reimbursement methodology for inpatient psychiatric services rendered in free-standing psychiatric hospitals and distinct part psychiatric units (*Louisiana Register*, Volume 30, Number 11). In compliance with the directives of Act 17 of the 2006 Regular Session of the Louisiana Legislature, the Bureau amended the reimbursement methodology for inpatient hospital services to increase the Medicaid reimbursement rates paid to private hospitals and free-standing and distinct part psychiatric units (*Louisiana Register*, Volume 33, Number 2).

In compliance with the directives of Act 18 of the 2007 Regular Session of the Louisiana Legislature, the bureau amended the reimbursement methodology for inpatient hospital services to increase the Medicaid reimbursement rates paid to non-rural private (non-state) acute care hospitals, long term hospitals, hospital intensive neurological rehabilitation units, free-standing psychiatric hospitals and distinct part psychiatric units (*Louisiana Register*, Volume 33, Number 9). The department amended the September 1, 2007 Emergency Rule to provide for a supplemental Medicaid payment to non-rural, non-state acute care hospitals for having a Medicaid inpatient utilization greater than 30 percent or furnishing additional graduate medical education services as a result of the suspension of training programs at the Medical Center of Louisiana at New Orleans due to the impact of Hurricane Katrina (*Louisiana Register*, Volume 33, Number 10). This Emergency Rule is being promulgated to continue the provisions of the October 1, 2007 Emergency Rule.

This Emergency Rule is being promulgated to promote the health and welfare of Medicaid recipients by ensuring sufficient provider participation in the Hospital Services Program and recipient access to providers of these medically necessary services.

Effective for dates of service on or after January 30, 2008, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amends the provisions governing inpatient hospital services.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part V. Hospital Services

Subpart 1. Inpatient Hospitals

Chapter 9. Non-Rural, Non-State Hospitals

Subchapter A. General Provisions

§901. Definitions

Non-Rural, Non-State Hospital—A hospital which is either owned and operated by a private entity, a hospital service district or a parish and does not meet the definition of a rural hospital as set forth in R.S. 40:1300.143(3)(a).

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:

Subchapter B. Reimbursement Methodology

§953. Acute Care Hospitals

A. For dates of service on or after September 1, 2007, the prospective per diem rate paid to non-rural, non-state acute care hospitals for inpatient services shall be increased by 4.75 percent of the rate on file for August 31, 2007.

B. Effective for dates of services on or after October 1, 2007, a quarterly supplemental payment will be issued to non-rural, non-state acute care hospitals that qualify as a high Medicaid hospital.

1. Qualifying Criteria. A hospital is considered to be a "high Medicaid hospital" if it has a Medicaid inpatient utilization percentage greater than 30 percent based on the 12 month cost report period ending in SFY 2006. For the purposes of calculating the Medicaid inpatient utilization percentage, Medicaid days shall include nursery and distinct part psychiatric unit days, but shall not include Medicare crossover days.

2. Each eligible hospital will receive a quarterly supplemental payment which shall be calculated based on the pro rata share of each qualifying hospital's paid Medicaid days (including covered nursery and distinct part psychiatric unit days) for dates of service in SFY 2007 to the total Medicaid days of all eligible hospitals multiplied by \$5,000,000 which is the amount appropriated for these supplemental payments.

3. Rehabilitation hospitals, long term acute care hospitals and free-standing psychiatric hospitals are not eligible for this supplemental payment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:

Chapter 13. Teaching Hospitals

Subchapter B. Reimbursement Methodology

§1331. Acute Care Hospitals

A. Effective for dates of services on or after October 1, 2007, a quarterly supplemental payment will be issued to non-rural, non-state acute care hospitals that furnish additional graduate medical education (GME) services.

B. Qualifying Criteria. In order to qualify for the supplemental payment, an acute care hospital must meet the following criteria. The hospital must:

1. be a non-rural, non-state hospital;
2. have a documented affiliation agreement with a Louisiana medical school accredited by the Liaison Committee on Medical Education (LCME);
3. have greater than five additional intern and resident full time equivalencies (FTEs) in SFY 2007 and the first six months of 2008 as compared to the Pre-Hurricane Katrina period of SFY 2005:

a. these additional intern and residency FTEs must directly result from the graduate medical education (GME) programs that were formerly taught at the Medical Center of Louisiana at New Orleans (MCLNO) and the suspension of training at MCLNO due to the impact of Hurricane Katrina; and

4. reimburse the medical school for the direct GME costs. Direct GME costs are defined as the costs of the residents' salaries and the faculty and administrative costs from the medical school.

C. Each qualifying hospital shall be paid their pro rata share of the \$5,000,000 supplemental GME payment pool based on their weighted Medicaid days. Paid Medicaid days (including newborn days included with the mother's stay) for dates of service in SFY 2007 shall be weighted using the following factor(s) as applicable:

1. 1.0—if the qualifying hospital has average additional resident FTEs of greater than five, but less than or equal to 10; or
2. 1.5—if the qualifying hospital has average additional resident FTEs of equal to or greater than 10, but less than or equal to 20; or
3. 2.0—if the qualifying hospital has an average additional resident FTEs of equal to or greater than 20; and
4. 1.5—if the qualifying hospital's cost is at least 20 percent more than the current Medicaid per diem rate.

D. Payment of one third of \$5,000,000 will be made at the beginning of each calendar quarter in SFY 2007 beginning with October 2007.

E. Rehabilitation hospitals, long term acute care hospitals and free-standing psychiatric hospitals are not eligible for this supplemental payment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:

Implementation of the provisions of this proposed Rule shall be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services.

Interested persons may submit written comments to Jerry Phillips, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to inquiries regarding this Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

Roxane A. Townsend, M.D.
Secretary

0801#074

DECLARATION OF EMERGENCY

Department of Health and Hospitals Office of the Secretary Bureau of Health Services Financing

Medicaid Eligibility Family Opportunity Act Medicaid Program (LAC 50:III.2303 and 10305)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing proposes to adopt LAC 50:III.2303 and 10305 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Family Opportunity Act, signed into law by Congress as part of the Deficit Reduction Act of 2005, contains provisions which allow states to offer a Medicaid buy-in program for children with disabilities. This optional Medicaid coverage is available to families with income above the financial standards for Supplemental Security Income (SSI) benefits but less than 300 percent of the federal poverty level.

In compliance with the directives of the Family Opportunity Act, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopted a Medicaid buy-in program, known as the Family Opportunity Act Medicaid Program, to provide health care coverage to children with disabilities who are not eligible for SSI disability benefits due to excess income or resources (*Louisiana Register*, Volume 33, Number 10). This Emergency rule is being promulgated to continue the provisions of the October 20, 2007 Emergency Rule. This action is being taken to secure enhanced federal revenue.

Effective February 18, 2008, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts provisions to implement a Medicaid buy-in program for children with disabilities.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part III. Eligibility

Subpart 3. Eligibility Groups and Factors

Chapter 23. Eligibility Groups and Programs

§2303. Family Opportunity Act Medicaid Program

A. The Family Opportunity Act, signed into law by Congress as part of the Deficit Reduction Act of 2005, allows states to offer a Medicaid buy-in program to families with income up to 300 percent of the Federal Poverty Level (FPL) for children with disabilities who are not eligible for Supplemental Security Income (SSI) disability benefits due to excess income or resources. The department hereby implements a Medicaid buy-in program called the Family Opportunity Act Medicaid Program to provide Medicaid coverage to children with disabilities.

B. Eligibility Requirements. Children born on or after October 1, 1995 and who meet the following requirements may receive health care coverage through the Family Opportunity Act Medicaid Program.

1. The child must have a disability which meets the Social Security Administration's childhood disability criteria.

2. Gross family income cannot exceed 300 percent of the Federal Poverty Level (FPL) using the income methodologies of the SSI Program.

a. For the purpose of determining family income, the family unit shall consist of the following members:

- i. child(ren) with disabilities;
- ii. natural or legal parent(s); and
- iii. siblings under age 19.

b. Step-parents and step-siblings are excluded from the income determination.

3. The child may be uninsured or underinsured.

a. Parents are required to enroll in available employer-sponsored health plans when the employer contributes at least 50 percent of the annual premium costs. Participation in such employer-sponsored health plans is a condition of continuing Medicaid coverage.

C. Children eligible under the Family Opportunity Act Medicaid Program shall receive coverage of medically necessary health care services provided under the Medicaid State Plan.

D. Premium Payments. Families with gross income above 200 percent, up to 300 percent of the FPL, are required to pay premiums for Medicaid coverage. Families with gross income up to 200 percent of the FPL are not required to pay premiums for Medicaid coverage.

1. The amounts paid for premiums for Medicaid-required family coverage and other cost-sharing may not exceed 5 percent of a family's income for families with income up to 200 percent of the FPL and 7.5 percent of a family's income for families with income above 200 percent of the FPL.

2. For families with gross income between 200 percent and 300 percent of the FPL, the premium amount for Medicaid is determined by whether the natural or legal parent(s) living in the household is paying for other creditable health insurance that covers the child(ren) with disabilities.

a. Families who have other creditable health insurance that provides coverage to the child(ren) with disabilities will pay a family Medicaid premium of \$15 per month.

b. Families who do not have other creditable health insurance that provides coverage to the child(ren) with disabilities will pay a family Medicaid premium of \$35 per month.

3. The first premium is due the month following the month that eligibility is established. Prepayment of premiums is not required. A child's eligibility for medical assistance will not terminate on the basis of failure to pay a premium until the failure to pay continues for at least 60 days from the date on which the premium was past due.

4. The premium may be waived in any case where it is determined that requiring a payment would create an undue hardship for the family. Undue hardships exist when a family:

a. is homeless or displaced due to a flood, fire, or natural disaster;

b. resides in an area where there is a presidential-declared emergency in effect;

c. presents a current notice of eviction or foreclosure; or

d. has other reasons as determined by the department.

5. Families whose eligibility has been terminated for non-payment of premiums must pay any outstanding premium balances for Medicaid-covered months before eligibility can be re-established, unless:

a. the liability has been canceled by the Bureau of Appeals or the Medicaid Recovery Unit; or

b. there has been a lapse in Medicaid coverage of at least 12 months.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:

Subpart 5. Financial Eligibility

Chapter 103. Income

§10305. Income Disregards

B. For recipients in the Family Opportunity Act Medicaid Program, an income disregard of \$85 will be applied to total gross (earned and unearned) family income and then half of the remaining income will be disregarded.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:

Implementation of the provisions of this Rule shall be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services.

Interested persons may submit written comments to Jerry Phillips, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to inquiries regarding this proposed Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

Roxane A. Townsend, M.D.
Secretary

0801#073

DECLARATION OF EMERGENCY

Department of Health and Hospitals Office of the Secretary Bureau of Health Services Financing

Medicaid Eligibility—Presumptive Eligibility for Children
(LAC 50:III.2527)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts LAC 50:III.2527 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XXI of the Social Security Act. This Emergency Rule is promulgated in accordance with the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals was directed by Act 407 of the 2007 Regular Session of the Louisiana Legislature to adopt provisions authorizing presumptive eligibility to accelerate children's access to Medicaid. Under presumptive eligibility, Medicaid can be provided immediately for children under age 19 whose gross family income does not exceed the highest income standard under which the child might be eligible. This Emergency Rule is being promulgated to comply with the provisions of Act 407 and adopt provisions governing presumptive eligibility for children.

This action is being taken to promote the health and welfare of children by providing timely access to services in the Medicaid Program. It is anticipated that implementation of this Emergency Rule will have no fiscal impact for state fiscal year 2007-2008.

Effective January 1, 2008, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts provisions governing presumptive eligibility for children in the Medicaid Program.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part III. Eligibility

Subpart 3. Eligibility Groups and Factors

Chapter 25. Eligibility Factors

§2527. Presumptive Eligibility for Children

A. Effective January 1, 2008, children under age 19 whose countable family income does not exceed 250 percent of the federal poverty level may be determined presumptively eligible for Medicaid services.

B. Application Process. The department may use a form which serves as a regular application for Medicaid as a screening tool for presumptive eligibility, but parents or caretakers are not required to provide more information than is needed to make a presumptive eligibility determination.

1. A determination of presumptive eligibility can be based on an oral statement of income. Completion of a written form or documentation is not required for the purposes of determining the amount of family income.

C. Certification Period. The presumptive period of eligibility shall begin on the date the child is determined presumptively eligible and ends the last day of the month following the month in which the child was determined presumptively eligible, or until a determination is made on a regular Medicaid application received on the child's behalf.

D. Intent to file a Medicaid application is not a condition of presumptive eligibility. Presumptive eligibility may not be denied solely because the family has stated that it does not intend to file a regular Medicaid application on the child's behalf.

E. Qualified Entities. Presumptive eligibility must be determined by a qualified entity. The department must determine that the entity is capable of making presumptive eligibility determinations. The department can limit the qualified entities that may make presumptive eligibility determinations for children to one or more classes. The entity must meet one of the following criteria:

1. provide health care items and services covered under the approved Medicaid State Plan and be eligible to receive payments under the plan;

2. be authorized to determine the eligibility of a child for Medicaid or a separate child health program under the State Children's Health Insurance Program (SCHIP);

3. be a state, tribal office, or entity involved in the enrollment of children in Medicaid, a separate child health program under SCHIP, or Temporary Assistance for Needy Families (TANF);

4. be an elementary or secondary school as defined in §14101 of the Elementary and Secondary Education Act of 1956;

5. be authorized to determine eligibility of a child to:

a. participate in a Head Start Program under the Head Start Act;

b. receive child care services for which financial assistance is provided under the Child Care and Development Block Grant of 1990; or

c. receive assistance under the special nutritional program for women, infants and children (WIC) under §17 of the Child Nutrition Act of 1966;

6. provide emergency food and shelter under a grant authorized by the Steward B. McKinney Homeless Assistance Act;

7. determine eligibility for any public housing program that receives federal funds; or

8. be any other entity deemed by the department to be capable of making presumptive eligibility determinations and approved by the secretary.

F. The department shall provide qualified entities with:

1. information regarding the income standard which children must meet to be presumptively eligible and, if applicable, the simple deductions and income disregards that qualified entities are to apply in determining a child's family income;

2. application forms needed for children to apply for regular Medicaid eligibility, and

3. information on how to assist parents, caretakers and other persons in completing and filing an application.

G. Qualified Provider Responsibilities

1. Qualified providers must notify the parent or caretaker of the child, in writing and orally, if appropriate, at the time the determination is made whether or not the child is presumptively eligible.

2. For children determined presumptively eligible, qualified providers must inform the child's parent or caretaker, in writing and orally, if appropriate, at the time the presumptive eligibility determination is made that:

a. if a regular application for Medicaid is not filed on the child's behalf by the last day of the next month, the child's presumptive eligibility ends on that date; and

b. if a regular application is filed by the last day of the next month, presumptive eligibility will end on the date the determination is made on the regular Medicaid application.

3. If a child is determined not to be presumptively eligible, the qualified provider must inform the child's parent or caretaker, in writing and orally, if appropriate, the reason why the determination was made. They must also inform the parent or caretaker that they may file an application for Medicaid on the child's behalf in order to obtain a formal eligibility determination and where such an application can be filed.

4. Qualified providers must notify the department of any presumptive eligibility determination within five working days after the determination is made.

5. Qualified providers must provide the parent or caretaker of the child with a regular Medicaid application as well as assistance in completing and filing the application.

H. Advance notice, hearing and appeal rights are not applicable to denials or terminations of presumptive eligibility.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:

Interested persons may submit written comments to Jerry Phillips, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to inquiries regarding this Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

Roxane A. Townsend, M.D.
Secretary

0801#019

DECLARATION OF EMERGENCY

**Department of Health and Hospitals
Office of the Secretary
Bureau of Health Services Financing**

Medicaid Eligibility—SSI-Related Resources
(LAC 50:III.10717)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts LAC 50:III.10717 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopted a Rule promulgating the *Medicaid Eligibility Manual* in its entirety by reference in May of 1996 (*Louisiana Register*, Volume 23, Number 5). Section I of the *Medicaid Eligibility Manual* addresses the eligibility factors considered in the determination of eligibility, including Supplemental Security Income (SSI) related resources.

The Omnibus Budget Reconciliation Act (OBRA) of 1993 established provisions governing the transfer of assets, trusts and annuities considered in the determination of Medicaid eligibility. In compliance with OBRA of 1993, the department amended the provisions of Section I of the *Medicaid Eligibility Manual* to clarify the treatment of annuities (*Louisiana Register*, Volume 29, Number 12).

The Deficit Reduction Act (DRA) of 2005 amended §§1917 and 1924 of the Social Security Act concerning the treatment of assets, asset transfers and the treatment of

income and resources for individuals and their spouses who apply for or receive long-term care services covered under the Medicaid Program. In compliance with the DRA provisions, the department now proposes to repeal and replace the provisions of Section I of the *Medicaid Eligibility Manual* governing the treatment of certain SSI-Related resources which were promulgated in the May 20, 1996 Rule, and to repeal and replace the December 20, 2003, August 20, 2005, and the July 20, 2006 Rules. This Emergency Rule also adopts provisions governing the treatment of continuing care retirement communities, substantial home equity and life estates. It is estimated that implementation of this proposed Emergency Rule will have no fiscal impact for state fiscal year 2007-08. This action is being taken to avoid possible federal sanctions.

Effective January 15, 2008, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing repeals and replaces the provisions governing the treatment of certain SSI-related resources in the determination of Medicaid eligibility.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part III. Eligibility

Subpart 5. Financial Eligibility

Chapter 107. Resources

§10717. Types of SSI-Related Resources

A. The following SSI-related resources are considered in determining eligibility for Medicaid coverage:

1. annuities:

a. any annuity purchases must adhere to the following requirements or the annuity will be considered an available countable resource:

i. the annuity must contain a statement that names the state of Louisiana as the remainder beneficiary in the first position for the total amount of Medicaid assistance paid on behalf of the annuitant unless there is a community spouse and/or a minor or disabled child;

ii. if there is a community spouse and/or a minor or disabled child, the state may be named in the next position after those individuals. If the state has been named after a community spouse and/or minor or disabled child and any of those individuals or their representatives dispose of any of the remainder of the annuity for less than fair market value, the state may then be named in the first position;

iii. if the state is not named as a remainder beneficiary in the correct position, the purchase of the annuity will be considered a transfer for less than fair market value. The full purchase value of the annuity will be considered the amount transferred;

b. in addition to purchases of annuities, certain related transactions which occur to annuities are subject to these provisions. If any action taken by the individual changes the course of payment to be made by the annuity, then the treatment of the income or principal of the annuity is subject to these provisions. This includes additions of principal, elective withdrawals, requests to change the distribution of the annuity, elections to annuitize the contract and similar actions taken by the individual:

i. routine changes and automatic events that do not require any action or decision after the effective date of the enactment are not considered transactions that would subject the annuity to treatment under these provisions;

c. refusal to disclose sufficient information related to any annuity will result in denial or termination of Medicaid based on the applicant's failure to cooperate. When an unreported annuity is discovered after eligibility has been established and after payment for long-term care services has been made, appropriate steps to terminate payment for services will be taken, including appropriate notice to the individual of the adverse action;

d. annuities purchased by or on behalf of an annuitant who has applied for medical assistance will not be treated as a transfer of assets if the annuity meets any of the following conditions:

i. the annuity is considered to be:

(a). an individual retirement annuity; or

(b). a deemed individual retirement account

(IRA) under a qualified employer plan; or

ii. the annuity is purchased with proceeds from one of the following:

(a). a traditional IRA;

(b). certain accounts or trusts which are treated as IRAs;

(c). a simplified retirement account; or

(d). a simplified employee pension; or

iii. the annuity:

(a). is irrevocable and non-assignable;

(b). is actuarially sound; and

(c). provides payments in approximately equal amounts with no deferred or balloon payments;

e. applicants or their authorized representatives shall be responsible for providing documentation from the financial institution verifying qualifying IRS annuities. Absent such documentation, the purchase of the annuity will be considered a transfer for less than fair market value which is subject to penalty. The full purchase value of the annuity will be considered the amount transferred;

f. if an annuity or the income stream from an annuity is transferred, except to or for the spouse's sole benefit, to their child or a trust, the transfer may be subject to penalty;

2. continuing care retirement community entrance fees:

a. continuing care retirement communities (CCRC's) are entities which provide a range of living arrangements from independent living through skilled nursing care. An entrance contract for admission to a continuing care retirement center or life care community must take into account the required allocation of resources or income to the community spouse before determining the amount of resources that a resident must spend on his or her own care;

b. a CCRC entrance fee shall be treated as a resource for the purposes of determining Medicaid eligibility under the following conditions if the entrance fee:

i. can be used to pay for care under the terms of the entrance contract should other resources of the individual be insufficient;

NOTE: It is not necessary for CCRC's or life care communities to provide a full, lump-sum refund of the entrance fee to the resident. If portions of the fee can be refunded or applied to pay for care as required, this condition would be met.

ii. or a remaining portion is refundable when the individual dies or terminates the contract and leaves the CCRC or life care community; and

NOTE: It is not necessary for the resident to actually receive a refund of the entrance fee for deposit. This condition is met as long as the resident could receive a refund were the contract to be terminated, or if the resident dies.

iii. does not confer an ownership interest in the community;

3. life estates:

a. the purchase of a life estate in another individual's home is considered a countable resource and subject to examination under transfer of asset provisions unless the purchaser resides in the home for a period of at least one year after the date of purchase;

b. the life estate value will be determined using the life estate tables published by the Social Security Administration for the SSI program;

c. for transfer of assets determinations, the amount of the transfer is the entire amount used to purchase the life estate:

i. the amount shall not be reduced or prorated to reflect an individual's residency for a period of time less than one year;

d. if payment for a life estate exceeds the fair market value (FMV) of the life estate, the difference between the amount paid and the FMV will be treated as a transfer of assets;

e. if an individual makes a gift or transfer of a life estate, the value of the life estate will be treated as a transfer of assets;

f. these provisions apply only to the purchase of life estates. They do not apply in situations where an individual transfers real property but retains usufruct and the value of the remainder interest (not the life estate) is used to determine whether a transfer has occurred and to calculate the period of ineligibility;

4. loans, mortgages, promissory notes and other property agreements:

a. countable assets include funds used to purchase a promissory note, or funds used to make a loan or mortgage. These resources are subject to transfer of assets provisions unless the repayment terms are actuarially sound;

b. loans, mortgages, promissory notes, property agreements or property assignments are countable resources regardless of any non-assignability, non-negotiability or non-transferability provisions contained therein;

c. instruments containing any of the following provisions are a countable resource and shall be evaluated as a transfer of assets:

i. repayment terms that exceed the holder's life expectancy;

ii. provisions for interest only payments or principal payments that are not to be made in equal amounts during the term of the loan;

iii. deferral or balloon payments; or

iv. cancellation or forgiveness clauses that cancel the balance upon some occurrence such as death of the lender;

d. if there is evidence that there is not a good faith agreement to repay the entire principal of a note, loan or mortgage, the instrument shall not be considered bona fide and shall be evaluated as a transfer of resources;

5. substantial home equity:

a. substantial home equity above the state's established limit is a countable resource which causes ineligibility for long-term care services. If an individual's equity interest in their home exceeds \$500,000, that individual is not eligible for Medicaid payment of nursing facility services or other long-term care services;

b. home equity limitations do not apply if the individual's spouse, the individual's child under the age of 21, or the individual's blind or disabled child is residing in the home:

i. a child is considered disabled if he or she meets the definition of disability as defined by Section 1614(a)(3) of the Social Security Act.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:

Interested persons may submit written comments to Jerry Phillips, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to all inquiries regarding this Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

Roxane A. Townsend, M.D.
Secretary

0801#082

DECLARATION OF EMERGENCY

Department of Health and Hospitals Office of the Secretary Bureau of Health Services Financing

Medicaid Eligibility—Spousal Impoverishment
Provisions and Nursing Facility Private-Pay Rate
(LAC 50:III.16101 and 16103)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts LAC 50:III.16101 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopted provisions governing spousal impoverishment criteria in the Medicaid Program for institutionalized individuals to allocate resources to a legal spouse and dependents living in the community (*Louisiana Register*, Volume 16, Number 3). The department amended the March 20, 1990 Rule by promulgating the Medicaid Eligibility Manual in its entirety by reference in May of 1996 (*Louisiana Register*, Volume 23, Number 5). Section I of the *Medicaid Eligibility Manual* addresses the eligibility factors considered in the determination of eligibility, including spousal impoverishment provisions.

The Deficit Reduction Act (DRA) Of 2005 amended §§1917 and 1924 of the Social Security Act concerning the treatment of assets, asset transfers and the treatment of income and resources for individuals and their spouses who apply for or receive long-term care services covered under the Medicaid Program. In compliance with the DRA provisions, the department now proposes to repeal and replace the March 20, 1990 Rule and the provisions of Section I of the *Medicaid Eligibility Manual* governing spousal impoverishment which was promulgated in the May 20, 1996 Rule. This Emergency Rule will also adopt provisions establishing the statewide average, monthly nursing facility private-pay rate used in the calculation of periods of ineligibility for long-term care services. It is estimated that implementation of this proposed Emergency Rule will have no fiscal impact for state fiscal year 2007-08. This action is being taken to avoid possible federal sanctions.

Effective January 15, 2008, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing repeals and replaces the provisions governing spousal impoverishment and establishes the monthly nursing facility private-pay rate.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part III. Eligibility

Subpart 9. Long-Term Care Eligibility

Chapter 161. General Provisions

§16101. Spousal Impoverishment

A. Spousal impoverishment provisions assure that the needs of an institutionalized individual's legal spouse and/or dependents that reside in the community continue to be met.

B. Spousal impoverishment resource provisions allow certain long term care applicants/recipients residing in a medical institution for a continuous period of institutionalization or home and community-based services waiver applicants/recipients to allocate resources to a legal spouse (referred to as the community spouse) who lives in a non-institutionalized living arrangement for the community spouse's own use and maintenance.

1. Exception. The spousal impoverishment provisions do not apply to individuals residing in a group home.

C. The income first rule shall apply to spousal impoverishment. Under these provisions, all of the income of the institutionalized spouse that can be made available to the community spouse will be made available to bring the spouse up to the Minimum Monthly Needs Allowance.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:

§16103. Nursing Facility Private-Pay Cost

A. The department uses a statewide average, monthly private-pay nursing facility cost amount to calculate the periods of ineligibility for long-term care services when uncompensated transfers of assets occur. The average, monthly private-pay nursing facility cost amount shall be determined by the bureau.

1. The amount will be reviewed annually to ensure that it remains aligned with private-pay costs.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:

Interested persons may submit written comments to Jerry Phillips at Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to all inquiries regarding this Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

Roxane A. Townsend, M.D.
Secretary

0801#080

DECLARATION OF EMERGENCY

Department of Health and Hospitals Office of the Secretary Bureau of Health Services Financing

Medicaid Eligibility—Transfers of Assets
(LAC 50:III.10905)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts LAC 50:III.Chapter 109 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Human Resources, Office of Family Security, adopted provisions governing the transfer of resources for less than the fair market value (FMV) (*Louisiana Register*, Volume 9, Number 6). The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amended the July 1, 1983 Rule to comply with the provisions of §§3250-3255 of the State Medicaid Manual governing the transfer of assets (*Louisiana Register*, Volume 16, Number 3). In April 1994, the department amended the March 20, 1990 Rule to extend the look-back period for potential transfers and to clarify the provisions governing transfer of assets. The department subsequently adopted a Rule promulgating the Medicaid Eligibility Manual in its entirety by reference in May of 1996 (*Louisiana Register*, Volume 23, Number 5). Section I of the Medicaid Eligibility Manual addresses the eligibility factors considered in the determination of eligibility, including transfers of assets.

The Deficit Reduction Act (DRA) of 2005 amended §§1917 and 1924 of the Social Security Act concerning the treatment of assets, asset transfers and the treatment of income and resources for individuals and their spouses who apply for or receive long-term care services covered under the Medicaid Program. In compliance with the DRA provisions, the department now proposes to amend the provisions governing the transfer of assets. It is estimated that implementation of this proposed Emergency Rule will decrease expenditures in the Medicaid Program by

approximately \$174,000 for state fiscal year 2007-08. This action is being taken to avoid possible federal sanctions.

Effective January 15, 2008, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amends the provisions governing transfers of assets.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part III. Eligibility

Subpart 5. Financial Eligibility

Chapter 109. Transfers of Assets

§10905. Transfers

A. The Deficit Reduction Act of 2005 established new provisions governing the treatment of transfers of assets for individuals and their spouses who apply for or receive long-term care services.

B. The look-back period is lengthened to five years for potential transfers of assets.

C. For transfers for less than fair market value, the period of ineligibility for long-term care vendor payment is the latter of the first day of the month after which the asset was transferred or the date on which the individual is eligible for long term care Medicaid assistance (but for the penalty being applied).

1. Periods of ineligibility cannot occur during any other period of ineligibility; they must be consecutive and not concurrent.

D. For transfers for less than fair market value, the penalty period for home and community-based services (HCBS) waiver recipients begins with the later of the month during which assets have been transferred or the date the individual is ineligible for Medicaid long-term care assistance and is receiving long-term care services (nursing facility and ICF/MR or HCBS services) that would be covered by Medicaid, except for imposition of the penalty.

E. Partial Month Transfers. The department shall impose penalties for transfers in a month that are less than the state's average monthly cost to a private patient of nursing facility services in the state.

F. Combining Multiple Transfers Made in More Than One Month. These provisions refer to more than one transfer during the look-back period where each transfer results in less than a full month of eligibility.

1. The department shall combine multiple transfers for less than fair market value in more than one month and impose a single period of ineligibility or apply multiple penalty periods.

a. If the department imposes a single period of ineligibility, all transfers will be added together and a single continuous period of eligibility will be imposed. Otherwise, a separate period of ineligibility shall be calculated for each month and the resulting periods of eligibility shall be imposed separately.

G. Undue Hardship. The department shall provide for an undue hardship waiver when application of the transfer of assets provision would deprive the individual of medical care such that the individual's health, life or other necessities of life would be endangered.

1. Undue hardship provisions shall permit the facility in which the individual is residing to file an undue hardship waiver application on his behalf with the consent of the individual or the personal representative of the individual.

2. Bed hold payments shall not be made while an application for an undue hardship waiver is pending.

3. Terms. The penalty is a period of ineligibility for receiving long term care vendor payments as a result of a transfer of income or assets or both.

a. An undue hardship exception is when a penalty will not be imposed against the applicant/enrollee, either in whole or in part, after findings that an undue hardship exists.

b. The community spouse is not protected by the hardship exception. The exception is for the applicant/enrollee not to be deprived.

4. Undue hardship does not exist:

a. when the application of the transfer of assets provisions merely causes the individual inconvenience or when such application might restrict his or her lifestyle but would not put him/her at risk of serious deprivation; and

b. when property is transferred to one or more of the following:

- i. blood relatives to a third degree cousin;
- ii. mother-in-law;
- iii. father-in-law;
- iv. brother-in-law; or
- v. sister-in-law;

c. if the individual who transferred the assets or income, or on whose behalf the assets or income were transferred, has not exhausted all lawful means to recover the assets or income or the value of the transferred assets or income; or

d. if the applicant/enrollee's health or age indicated a need for long term care services was predictable at the time of the transfer.

5. The applicant/recipient shall be advised in writing that an undue hardship exception.

6. If an undue hardship exception is denied the applicant has the right to appeal the denial decision.

7. Determining Undue Hardship. Once a period of ineligibility has been established because of a transfer of assets or income for less than fair market value, or the equity value in the home, an applicant/enrollee may apply for an undue hardship exception.

a. An undue hardship exception request must be made within seven days from the date of notification of the penalty. Documentation supporting the request for the exception of undue hardship must be provided. The department may extend the request periods if it determines that extenuating circumstances require additional time.

b. When undue hardship requests are made for the first time, individuals challenging the penalty must raise all claims and submit all evidence permitting consideration of undue hardship. The individual has to have taken action in law and equity to get the asset back before the department can consider undue hardship.

c. Once the department determines that it has received complete documentation, it shall inform the individual within 10 business days of the undue hardship decision.

d. If no request for undue hardship is received within seven days after notification of a transfer penalty, or if the request is denied, the department shall issue an eligibility determination specifying the applicable penalty period. If the individual is a recipient, the notice shall include the date of the Medicaid long-term care termination.

The notice shall also include the right to request a fair hearing and continuing benefits.

8. An undue hardship exception may be requested at any time during the penalty period if new circumstances leading to undue hardship arise during the duration of the penalty period. If granted, the undue hardship request shall be prospective from the date of the request.

9. The department shall have no obligation to pay for long-term care services during the penalty period unless it grants an undue hardship exception or the applicant/enrollee prevails in a fair hearing.

10. The individual must provide to the department sufficient documentation to support, by a preponderance of the evidence, the claim that application of the penalty will result in an undue hardship to the applicant/enrollee (not the community spouse).

11. If undue hardship is determined to exist, the transferred assets or equity value in the home shall not be considered in the eligibility process.

12. If a request for an undue hardship exception is denied, the applicant/enrollee may request a fair hearing.

13. Terminating the Undue Hardship Exception. The department shall terminate the undue hardship exception, if not earlier, at the time an individual, the spouse of the individual, or anyone with authority on behalf of the individual, makes any uncompensated transfer of income or assets after the undue hardship exception is granted.

a. The department shall deny any further requests for an undue hardship exception due to either the disqualification based on the transfer upon which the initial undue hardship determination was based or a disqualification based on the transfer, which required termination of the undue hardship exception.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:

Interested persons may submit written comments to Jerry Phillips, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to all inquiries regarding this Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

Roxane A. Townsend, M.D.
Secretary

0801#079

DECLARATION OF EMERGENCY

Department of Health and Hospitals Office of the Secretary Bureau of Health Services Financing

Nursing Facility Minimum Licensing Standards Emergency Preparedness (LAC 48:I.9729)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing proposes to amend LAC 48:I.9729 as authorized by R.S. 36:254 and R.S. 40:2009.1-2116.4. This Emergency Rule is promulgated

in accordance with the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing promulgated a Rule to adopt minimum licensing standards for nursing homes (*Louisiana Register*, Volume 24, Number 1).

Act 540 of the 2006 Regular Session of the Louisiana Legislature directed the department, in consultation with the Governor's Office of Homeland Security, to adopt provisions governing emergency preparedness requirements for nursing facilities.

In compliance with the directives of Act 540, the department amended the January 20, 1998 Rule to revise the provisions governing emergency preparedness requirements for nursing facilities (*Louisiana Register*, Volume 32, Number 12). The department amended the December 20, 2006 Rule to further revise and clarify the provisions governing emergency preparedness requirements for nursing facilities (*Louisiana Register*, Volume 33, Number 6). This Emergency Rule is being promulgated to continue the provisions of the June 10, 2007 Emergency Rule. This action is being taken to prevent imminent peril to the health and well-being of Louisiana citizens who are residents of nursing facilities that may be evacuated as a result of declared disasters or other emergencies.

Effective February 7, 2008, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amends the provisions governing emergency preparedness requirements for nursing facilities.

Title 48

PUBLIC HEALTH—GENERAL

Part I. General Administration

Subpart 3. Licensing

Chapter 97. Nursing Homes

Subchapter B. Organization and General Services

§9729. Emergency Preparedness

A. The nursing facility shall have an emergency preparedness plan which conforms to the Louisiana Model Nursing Home Emergency Plan and provisions of this chapter. The plan shall be designed to manage the consequences of declared disasters or other emergencies that disrupt the facility's ability to provide care and treatment or threatens the lives or safety of the residents. The facility shall follow and execute its approved emergency preparedness plan in the event of the occurrence of a declared disaster or other emergency.

1. Upon the department's request, a nursing facility shall forward its emergency preparedness information and documentation for review.

a. Emergency preparedness information and documentation shall, at a minimum, include:

i. a copy of the nursing facility's emergency preparedness plan;

ii. updates, amendments, modifications or changes to the nursing facility's emergency preparedness plan;

iii. the number of operational beds; and

iv. census information, including transportation requirements for residents.

2. After reviewing the nursing facility's plan, if the department determines that the plan is not viable or does not promote the health, safety and welfare of nursing facility residents, the facility shall, within 10 days of notification, respond with an acceptable plan of correction to amend its emergency preparedness plan.

B. The emergency preparedness plan shall be individualized and site specific. At a minimum, the nursing facility shall have a written emergency preparedness plan that addresses:

1. the nursing facility's procedures and criteria for determining if they should evacuate the facility or shelter in place:

a. for evacuation determinations, the nursing facility's plan shall provide for a primary sheltering host site(s) and alternative sheltering host sites outside the area of risk. These host sites must be verified by written agreements or contracts;

b. if the state or parish Office of Homeland Security and Emergency Preparedness (OHSEP) orders a mandatory evacuation of the parish or area in which the nursing facility is located, the facility shall evacuate unless the facility receives a written exemption from the ordering authority;

c. the nursing facility shall provide a plan for monitoring weather warnings and watches and evacuation orders from local and state emergency preparedness officials;

2. the delivery of essential care and services to residents, whether the residents are housed in the nursing facility, at an off-site location, or when additional residents are housed in the nursing facility during an emergency;

3. the provisions for the management of staff, including provisions for adequate, qualified staff as well as provisions for distribution and assignment of responsibilities and functions, either within the nursing facility or at another location;

4. an executable plan for coordinating transportation services, that shall be air-conditioned when available, required for evacuating residents to another location, including the following:

a. a triage system for residents requiring specialized transportation and medical needs; and

b. a written binding transportation agreement(s) for evacuating residents to a safe location; or

c. a written plan for using transportation equipment owned by, or at the disposal of, the facility;

5. the procedures to notify the resident's family or responsible representative whether the facility is sheltering in place or evacuating. If the facility evacuates, notification shall include:

a. the date and approximate time that the facility is evacuating;

b. the place or location to which the nursing facility is evacuating, including the:

i. name;

ii. address; and

iii. telephone number; and

c. a telephone number that the family or responsible representative may call for information regarding the facility's evacuation;

6. the procedure or method whereby each nursing facility resident has a manner of identification attached to his person which remains with him at all times in the event of sheltering in place or evacuation;

7. the procedure or method whereby each nursing facility resident has the following minimum information included with him during all phases of an evacuation:

a. current and active diagnosis;

b. medications, including dosage and times administered;

c. allergies;

d. special dietary needs or restrictions; and

e. next of kin, including contact information;

8. the procedure for ensuring that an adequate supply of the following items accompany residents on buses or other transportation during all phases of evacuation:

a. water;

b. food;

c. nutritional supplies and supplements;

d. medication; and

e. other necessary supplies;

9. the procedures for ensuring that licensed nursing staff accompany residents on buses or other transportation during all phases of evacuation;

10. staffing patterns for sheltering in place and for evacuation, including contact information for such staff;

11. a plan for sheltering in place if the nursing facility determines that sheltering is appropriate:

a. if the nursing facility shelters in place, the facility's plan shall include provisions for seven days of necessary supplies on hand to include:

i. drinking water, a minimum of 1 gallon per day per person;

ii. water for sanitation;

iii. non-perishable food, including special diets;

iv. medications;

v. medical supplies;

vi. personal hygiene supplies; and

vii. sanitary supplies;

b. a posted communications plan for contacting emergency services and monitoring emergency broadcasts. The communication plan shall include:

i. the type of equipment;

ii. back-up equipment;

iii. the equipment's testing schedule; and

iv. the power supply for the equipment being used;

and

c. generator capabilities to include:

i. HVAC system;

ii. sewerage system;

iii. water system;

iv. medical equipment;

v. refrigeration;

vi. lights;

vii. communications; and

viii. a plan for a seven day supply of fuel; and

12. the nursing facilities subject to the provisions of Louisiana R.S. 40:2009.25(A) shall have conducted a risk assessment of their facility to determine facility integrity in

determining whether sheltering in place is appropriate. The assessment shall be reviewed and updated annually. The risk assessment shall include the following:

- a. the facility's latitude and longitude;
- b. flood zone determination, using the nursing facility's latitude and longitude;
- c. elevations of the building(s), HVAC system(s), generator(s), fuel storage, electrical service and sewer motor, if applicable;
- d. a building evaluation to include:
 - i. the construction type;
 - ii. roof type;
 - iii. windows and shutters;
 - iv. wind load; and
 - v. interior safe zones;
- e. an evaluation of each generator's fuel source(s), including refueling plans, output of the generator(s) and electrical load of required emergency equipment;
- f. an evaluation of surroundings, including lay-down hazards and hazardous materials, such as:
 - i. trees;
 - ii. towers;
 - iii. storage tanks;
 - iv. other buildings; and
 - v. pipe lines;
- g. an evaluation of security for emergency supplies;
- h. Sea, Lake and Overland Surge from Hurricanes (SLOSH) Modeling using the Maximum's of the Maximum Envelope of Waters (MOM); and
- i. floor plans, of the building being used as the facility's shelter site, that indicate:
 - i. the areas being used as shelter or safe zones;
 - ii. emergency supply storage areas;
 - iii. emergency power outlets;
 - iv. communications center;
 - v. posted emergency information; and
 - vi. pre-designated command post.

C. Emergency Plan Activation, Review and Summary

1. The nursing facility's plan shall be activated at least annually, either in response to an emergency or in a planned drill. The facility's performance during the activation of the plan shall be evaluated and documented. The plan shall be revised if indicated by the nursing facility's performance during the emergency event or the planned drill.

2. Nursing facilities subject to the provisions of R.S. 40:2009.25(B) shall submit a summary of the updated plan to the department's nursing facility emergency preparedness manager by March 1 of each year. If changes are made during the year, a summary of the amended plan shall be submitted within 30 days of the modification.

D. The nursing facility's plan shall be submitted to the OHSEP. Any recommendations by the OHSEP regarding the nursing facility's plan shall be documented and addressed by the facility.

E. ...

F. Evacuation, Temporary Relocation or Temporary Cessation

1. In the event that a nursing facility evacuates, temporarily relocates or temporarily ceases operation at its licensed location as a result of an evacuation order issued by the state or parish OHSEP, due to a declared disaster or other emergency, and that nursing facility sustains damages due to

wind, flooding or experiences power outages for longer than 48 hours, the nursing facility shall not be reopened to accept returning evacuated residents or new admissions until surveys have been conducted by the Office of the State Fire Marshal, the Office of Public Health and the Bureau of Health Services Financing, Health Standards Section, and the facility has received a letter of approval from the department for reopening the facility.

a. The purpose of these surveys is to assure that the facility is in compliance with the licensing standards including, but not limited to, the structural soundness of the building, the sanitation code, staffing requirements and the execution of emergency plans.

b. The Health Standards Section, in coordination with state and parish OHSEP, will determine the facility's access to the community service infrastructure, such as hospitals, transportation, physicians, professional services and necessary supplies.

c. The Health Standards Section will give priority to reopening surveys.

2. If a nursing facility evacuates, temporarily relocates or temporarily ceases operation at its licensed location as a result of an evacuation order issued by the state or parish OHSEP, due to a declared disaster or other emergency, and the nursing facility does not sustain damages due to wind, flooding or experiences power outages for longer than 48 hours, the nursing facility may be reopened without the necessity of the required surveys. Prior to reopening, the nursing facility shall notify the Health Standards Section in writing that the facility is reopening.

G. Authority to Reopen and Execution of Emergency Preparedness Plan

1. Before reopening at its licensed location, the nursing facility shall submit a written initial summary within 14 days from the date of evacuation to the licensing agency attesting how the facility's emergency preparedness plan was followed and executed. The initial summary shall contain, at a minimum:

a. - d. ...

e. a list of all injuries and deaths of residents that occurred during the execution of the plan, evacuation and temporary relocation including the date, time, causes and circumstances of the injuries and deaths.

2. A more detailed report shall be submitted upon request by the licensing agency.

a. - c. Repealed.

H. Sheltering in Place

1. If a nursing facility shelters in place at its licensed location during a declared disaster or other emergency, the nursing facility shall submit a written initial summary within 14 days from the date of the emergency event to the licensing agency attesting how the facility's emergency preparedness plan was followed and executed. The initial summary shall contain, at a minimum:

a. pertinent plan provisions and how the plan was followed and executed;

b. plan provisions that were not followed;

c. reasons and mitigating circumstances for failure to follow and execute certain plan provisions;

d. contingency arrangements made for those plan provisions not followed; and

e. a list of all injuries and deaths of residents that occurred during the execution of the plan, including the date, time, causes and circumstances of these injuries and deaths.

2. A more detailed report shall be submitted upon request by the licensing agency.

I. Unlicensed Sheltering Sites

1. In the event that a nursing facility evacuates, temporarily relocates or temporarily ceases operations at its licensed location due to an evacuation order issued by the state or parish OHSEP, the nursing facility shall be allowed to remain at an unlicensed sheltering site for a maximum of five days. A nursing facility may request one extension, not to exceed five days, to remain at the unlicensed sheltering site.

a. The request shall be submitted in writing to the Health Standards Section and shall be based upon information that the nursing facility's residents will return to its licensed location, or be placed in alternate licensed nursing home beds within the extension period requested.

b. The extension will be granted for good cause shown and for circumstances beyond the control of the nursing facility.

c. This extension will be granted only if essential care and services to residents are ensured at the current sheltering facility.

2. Upon expiration of the five days or upon expiration of the written extension granted to the nursing facility, all residents shall be relocated to a licensed nursing facility and the Health Standards Section and OHSEP shall be informed of the residents' new location(s).

J. Notification

1. In the event that a nursing facility evacuates, temporarily relocates or temporarily ceases operations at its licensed location as a result of an evacuation order issued by the state or parish OHSEP, the nursing facility must immediately give notice to the Health Standards Section and OHSEP by facsimile or email of the following:

a. the date and approximate time of the evacuation;

b. the sheltering host site(s) to which the nursing facility is evacuating; and

c. a list of residents being evacuated, which shall indicate the evacuation site for each resident.

2. Within 48 hours, the nursing facility must notify the Health Standards Section and OHSEP of any deviations from the intended sheltering host site(s) and must provide the Health Standards Section and OHSEP with a list of all residents and their locations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing LR 24:49 (January 1998), amended LR 32:2261 (December 2006), LR 33:978 (June 2007), LR 34:

Interested persons may submit written comments to Jerry Phillips, Department of Health and Hospitals, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to inquiries regarding this proposed Rule. A copy of this

Emergency Rule is available for review by interested parties at parish Medicaid offices.

Roxane A. Townsend M.D.
Secretary

0801#072

DECLARATION OF EMERGENCY

**Department of Health and Hospitals
Office of the Secretary
Bureau of Health Services Financing**

**Pain Management Clinics—Licensing Standards
(LAC 48:I.7801)**

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amends LAC 48:I.7801 as authorized by R.S 36:254 and R.S. 40:2198.11-13. This Emergency Rule is promulgated in accordance with the Administrative Procedure Act, R.S. 49:953(B)(1) et seq. and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

In compliance with Act 488 of the 2005 Regular Session of the Louisiana Legislature, the department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopted provisions establishing the licensing standards for pain management clinics (*Louisiana Register*, Volume 34, Number 1). Pain management clinics are public or private facilities which primarily engage in the treatment of pain by prescribing narcotic medications. The department now proposes to amend the provisions contained in the January 20, 2008 Rule to further clarify the definition of pain management specialist as related to services furnished by urgent care facilities. This action is being taken to promote the health and well-being of Louisiana citizens by assuring access to these medically necessary health care services while enhancing the quality of care being furnished to patients. It is estimated that the implementation of this Emergency Rule will not have a fiscal impact on state expenditures for state fiscal year 2007-2008.

Effective January 20, 2008, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amends the provisions governing pain management clinics.

Title 48

PUBLIC HEALTH—GENERAL

Part I. General Administration

Subpart 3. Licensing and Certification

Chapter 78. Pain Management Clinics

Subchapter A. General Provisions

§7801. Definitions

* * *

Pain Specialist—a physician, licensed in Louisiana, with a certification in the subspecialty of pain management by a member board of the American Boards of Medical Specialties.

1. For urgent care facilities in operation on or before June 15, 2005, the definition of pain specialist is a physician who is licensed in the state of Louisiana, board certified in his or her area of residency training and certified within one year from the adoption of this rule in the subspecialty of pain management by any board or academy providing such designation such as the American Boards of Medical Specialties, American Board of Pain Management, American Academy of Pain Management or the American Board of Interventional Pain Physicians. Any conflict, inconsistency or ambiguity with any other regulations contained in this chapter shall be controlled by §7801.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. R.S. 40:2198.11-13.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:0000 (January 2008), amended LR 34:

Interested persons may submit written comments to Jerry Phillips, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to inquiries regarding this Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

Roxane A. Townsend, M.D.
Secretary

0801#078

DECLARATION OF EMERGENCY

Department of Health and Hospitals Office of the Secretary Bureau of Health Services Financing

Professional Services Program—Adult Immunizations (LAC 50:IX.Chapters 83-87)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts LAC 50:IX.Chapters 83-87 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

Act 18 of the 2007 Regular Session of the Louisiana Legislature authorized expenditures to the Medical Vendor Program to allow for the coverage of certain adult immunizations provided by a medical professional for influenza, pneumococcal and human papillomavirus (HPV) diseases. These immunizations will be covered for Medicaid recipients who are age 21 or older. In compliance with the directives of Act 18, the Department by Emergency Rule adopted provisions to allow for the reimbursement of adult immunizations for influenza, pneumococcal and HPV diseases (*Louisiana Register*, Volume 33, Number 9). This Emergency Rule is being promulgated to continue the provisions of the October 1, 2007 Emergency Rule.

This Emergency Rule is being promulgated to promote the health and welfare of Medicaid recipients by ensuring recipient access to preventive care to aid in the eradication of serious illnesses that may disrupt normal family functioning.

Effective January 30, 2008, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts provisions for the coverage of certain adult immunizations.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part IX. Professional Services Program

Subpart 7. Immunizations

Chapter 83. Children's Immunizations (Reserved)

Chapter 85. Adult Immunizations

§8501. General Provisions

A. Effective October 1, 2007, the department shall provide Medicaid coverage for certain immunizations administered by enrolled Medicaid providers for adult recipients, age 21 or older. Adult immunizations shall be covered for the following diseases:

1. influenza;
2. pneumococcal; and
3. human papillomavirus (HPV).

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:

§8503. Coverage Restrictions

A. HPV Immunizations. Immunizations for HPV are restricted to female recipients from age 21 through 26 years old.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:

Chapter 87. Reimbursement

§8701. Reimbursement Methodology

A. Adult Immunizations. Providers shall be reimbursed according to the established fee schedule for the vaccine and the administration of the vaccine.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:

Implementation of the provisions of this proposed Rule shall be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services.

Interested persons may submit written comments to Jerry Phillips, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to inquiries regarding this Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

Roxane A. Townsend, M.D.
Secretary

0801#071

DECLARATION OF EMERGENCY

Department of Health and Hospitals Office of the Secretary Bureau of Health Services Financing

Professional Services Program—Physicians Services
Payment for Adjunct Services
(LAC 50:IX.15121)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing proposes to adopt LAC 50:IX.15121 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

Act 18 of the 2007 Regular Session of the Louisiana Legislature authorized expenditures to the Medical Vendor Program to reimburse professional services providers who provide and report services rendered in settings other than hospital emergency departments during evening, weekend or holiday hours.

In compliance with the directives of Act 18, the department adopted provisions allowing for the reimbursement of an additional payment to professional services providers for services provided in settings other than hospital emergency departments during evening, weekend or holiday hours (*Louisiana Register*, Volume 33, Number 10). This Emergency Rule is being promulgated to continue the provisions of the October 20, 2007 Emergency Rule. This action is being taken to promote the health and welfare of Medicaid recipients by ensuring recipient access to primary and urgent care that can be acquired in a setting other than hospital emergency departments.

Effective February 18, 2008, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amends the reimbursement methodology governing professional services to adopt provisions establishing reimbursement for the payment of adjunct services when professional services are provided in a setting other than hospital emergency departments during evening, weekend or holiday hours.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part IX. Professional Services Program

Subpart 15. Reimbursement

Chapter 151. Reimbursement Methodology

§15121. Payment for Adjunct Services

A. Effective for dates of service on or after October 20, 2007, the Medicaid Program shall provide reimbursement for the payment of adjunct services in addition to the reimbursement for evaluation and management services and the associated ancillary services when these professional services are rendered in settings other than hospital emergency departments during evening, weekend or holiday hours.

B. The reimbursement for adjunct services is a flat fee in addition to the reimbursement for the associated evaluation and management and ancillary services.

C. Reimbursement is limited to services rendered between the hours of 5 p.m. and 8 a.m., Monday through Friday, on weekends and state legal holidays. Documentation relative to this reimbursement must include the time that the services were rendered.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:

Implementation of the provisions of this proposed Rule shall be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services.

Interested persons may submit written comments to Jerry Phillips, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to inquiries regarding this Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

Roxane A. Townsend, M.D.
Secretary

0801#070

DECLARATION OF EMERGENCY

Department of Health and Hospitals Office of the Secretary Bureau of Health Services Financing

Professional Services Program—Physicians Services
Reimbursement Methodology (LAC 50:IX.15103)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts LAC 50:IX.15103 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing reimburses professional services in accordance with an established fee schedule for Current Procedural Terminology (CPT) codes and Healthcare Common Procedure Coding System (HCPCS) codes. Act 18 of the 2007 Regular Session of the Louisiana Legislature authorized expenditures to the Medical Vendor Program to adjust the Medicaid reimbursement rates paid for physician services. In compliance with Act 18, the bureau promulgated an Emergency Rule to amend the provisions contained in the December 20, 2003 and April 20, 2005 Rules governing the reimbursement methodology for physician services. In addition, the bureau repealed the provisions contained in the following Rule governing the reimbursement methodology for physician services: December 20, 2000; May 20, 2001; August 20, 2002; and February 20, 2007 (*Louisiana Register*, Volume 3, Number 10). This Emergency Rule is

being promulgated to amend the October 15, 2007 Emergency Rule to adjust the reimbursement rates paid for selected physician services to the 2008 Louisiana Medicare Region 99 rates.

This action is being taken to promote the health and welfare of Medicaid recipients and to maintain access to physician services by encouraging the continued participation of providers in the Medicaid Program. It is estimated that implementation of this Emergency Rule will increase expenditures for physician services by approximately \$16,750,000 for state fiscal year 2007-2008.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part IX. Professional Services Program

Subpart 15. Reimbursement

§15103. Physician Services

A. Effective for dates of service on or after October 15, 2007, the reimbursement for selected physician services shall be 90 percent of the 2007 Louisiana Medicare Region 99 allowable or billed charges, whichever is the lesser amount, unless otherwise stipulated.

1. The reimbursement shall remain the same for those services that are currently being reimbursed at a rate that is between 90 percent and 120 percent of the 2007 Louisiana Medicare Region 99 allowable.

2. For those services that are currently reimbursed at a rate above 120 percent of the 2007 Louisiana Medicare Region 99 allowable, effective for dates of service on or after October 15, 2007, the reimbursement for these services shall be reduced to 120 percent of the 2007 Louisiana Medicare Region 99 allowable.

B. Effective for dates of service on or after January 1, 2008, the reimbursement for selected physician services shall be 90 percent of the 2008 Louisiana Medicare Region 99 allowable or billed charges, whichever is the lesser amount, unless otherwise stipulated.

1. The reimbursement shall remain the same for those services that are currently being reimbursed at a rate that is between 90 percent and 120 percent of the 2008 Louisiana Medicare Region 99 allowable.

2. For those services that are currently reimbursed at a rate above 120 percent of the 2008 Louisiana Medicare Region 99 allowable, effective for dates of service on or after January 1, 2008, the reimbursement for these services shall be reduced to 120 percent of the 2008 Louisiana Medicare Region 99 allowable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:

Implementation of the provisions of this Rule shall be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services.

Interested persons may submit written comments to Jerry Phillips, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for

responding to inquiries regarding this Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

Roxane A. Townsend, M.D.
Secretary

0801#020

DECLARATION OF EMERGENCY

**Department of Health and Hospitals
Office of the Secretary
Bureau of Health Services Financing**

**Rural Health Clinics—Reimbursement
Methodology—Payment for Adjunct Services
(LAC 50:XI.16703)**

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts LAC 50:XI.16703 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopted provisions governing services, provider participation and reimbursement methodology for rural health clinics (*Louisiana Register*, Volume 32, Number 12). Act 18 of the 2007 Regular Session of the Louisiana Legislature authorized expenditures to the Medical Vendor Program to reimburse professional services providers, including rural health clinics, who provide and report services rendered in settings other than hospital emergency departments during evening, weekend or holiday hours. In compliance with the directives of Act 18, the department by Emergency Rule adopted provisions to allow for the reimbursement of an additional payment to rural health clinics for professional services provided in settings other than hospital emergency departments during evening, weekend or holiday hours (*Louisiana Register*, Volume 33, Number 10). This Emergency Rule is being promulgated to continue the provisions of the October 20, 2007 Emergency Rule. This Emergency Rule is being promulgated to promote the health and welfare of Medicaid recipients by ensuring recipient access to primary and urgent care that can be acquired in a setting other than hospital emergency departments.

Effective February 18, 2008, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amends the reimbursement methodology governing rural health clinics to adopt provisions establishing reimbursement for the payment of adjunct services when professional services are provided in a setting other than hospital emergency departments during evening, weekend or holiday hours.

**Title 50
PUBLIC HEALTH—MEDICAL ASSISTANCE**

Part XI. Clinic Services

Subpart 15. Rural Health Clinics

Chapter 167. Reimbursement Methodology

§16703. Payment for Adjunct Services

A. Effective for dates of service on or after October 20, 2007, the Medicaid Program shall provide reimbursement for the payment of adjunct services in addition to the encounter rate paid for professional services provided by rural health clinics when these professional services are rendered during evening, weekend or holiday hours.

1. A payment for adjunct services is not allowed when the encounter is for dental services only.

B. The reimbursement for adjunct services is a flat fee in addition to the reimbursement for the associated office encounter.

C. Reimbursement is limited to services rendered between the hours of 5 p.m. and 8 a.m., Monday through Friday, on weekends and state legal holidays. Documentation relative to this reimbursement must include the time that the services were rendered.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:

Implementation of the provisions of this proposed Rule shall be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services.

Interested persons may submit written comments to Jerry Phillips, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to inquiries regarding this Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

Roxane A. Townsend, M.D.
Secretary

0801#069

DECLARATION OF EMERGENCY

**Department of Health and Hospitals
Office of the Secretary
Office of Aging and Adult Services**

**Home and Community-Based Services Waiver—Adult Day
Health Care—Direct Service Professionals Wage
Enhancement (LAC 50:XXI.3109)**

The Department of Health and Hospitals, Office of the Secretary, Office of Aging and Adult Services amends LAC 50:XXI.3109 under the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Office of the Secretary, Office of Aging and Adult Services adopted provisions governing the reimbursement methodology for the Adult Day Health Care (ADHC) Waiver (*Louisiana Register*, Volume 30, Number 9). The Department, by Emergency Rule, amended the provisions of the September 20, 2004 Rule governing the reimbursement methodology for the ADHC Waiver by increasing reimbursement to providers to implement a wage enhancement for direct care staff (*Louisiana Register*, Volume 33, Number 2). It is the intent that the wage enhancement be paid to the direct care staff. This Emergency Rule is being promulgated to continue the provisions of the February 9, 2007 Emergency Rule. This action is being taken to promote the health and well-being of waiver recipients by assuring continued access to services through assisting providers to recruit and retain sufficient direct care staff.

Effective February 7, 2008, the Department of Health and Hospitals, Office of the Secretary, Office of Aging and Adult Services amends the provisions governing the reimbursement methodology for the Adult Day Health Care Waiver by increasing reimbursement to providers to implement a wage pass-through payment for direct care workers.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part XXI. Home and Community Based Services

Waivers

Subpart 3. Adult Day Health Care

Chapter 31. Reimbursement

§3109. Provider Reimbursement

A. - B.7.a. ...

i. For dates of service on or after February 9, 2007, the facility-specific direct care price will be increased by \$1.11 to include a direct care service worker wage enhancement. It is the intent that this wage enhancement be paid to the direct care service workers.

7.b. - 8.b. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:2048 (September 2004), amended by the Department of Health and Hospitals, Office of the Secretary, Office of Aging and Adult Services, LR 34:

Implementation of the provisions of this Rule shall be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services.

Interested persons may submit written comments to Hugh Eley, Office of Aging and Adult Services, P.O. Box 2031, Baton Rouge, LA 70821-2031. He is responsible for responding to inquiries regarding this Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

Roxane A. Townsend, M.D., M.P.H.
Secretary

0801#075

DECLARATION OF EMERGENCY

Department of Health and Hospitals Office of the Secretary Office for Citizens with Developmental Disabilities

Home and Community-Based Services Waivers
Supports Waiver—Support Coordination Services
(LAC 50:XXI.5715, 5901 and 6101)

The Department of Health and Hospitals, Office of the Secretary, Office for Citizens with Developmental Disabilities adopts LAC 50:XXI.5715 and amends §§5901 and 6101 under the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Office of the Secretary, Office for Citizens with Developmental Disabilities implemented a new home and community-based services waiver, called the Supports Waiver, to promote the independence of individuals with developmental disabilities by creating vocational and community inclusion options to enhance their lives (*Louisiana Register*, Volume 32, Number 9).

Waiver recipients currently receive support coordination for the Supports Waiver through targeted case management services provided under the Medicaid State Plan and paid from all state general funds, pending approval of the associated Medicaid State Plan Amendment. The Department by Emergency Rule amended the September 20, 2006 Rule governing the services covered in the Supports Waiver to include support coordination as a covered service (*Louisiana Register*, Volume 33, Number 6). This Emergency Rule is being promulgated to continue the provisions of the June 20, 2007 Emergency Rule. This action is being taken to secure enhanced federal funding and eliminate the reliance on state general funds for support coordination services provided to Supports Waiver recipients.

Effective February 17, 2008, the Department of Health and Hospitals, Office of the Secretary, Office for Citizens with Developmental Disabilities amends the provisions governing the Supports Waiver to establish support coordination as a covered service.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part XXI. Home and Community Based Services Waivers

Subpart 5. Supports Waiver

Chapter 57. Covered Services

§5715. Support Coordination

A. Support Coordination is a service that will assist recipients in gaining access to all of their necessary services, as well as medical, social, educational and other services, regardless of the funding source for the services. Support coordinators shall be responsible for on-going monitoring of the provision of services included in the recipient's approved CPOC.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Office for Citizens with Developmental Disabilities, LR 34:

Chapter 59. Provider Participation

§5901. General Provisions

A. - C.5. ...

6. Support Coordination. Providers must be licensed as support coordination agencies and enrolled in the Medicaid Program to deliver these services.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Office for Citizens with Developmental Disabilities, LR 32:1607 (September 2006), amended LR 34:

Chapter 61. Reimbursement

§6101. Reimbursement Methodology

A. - H. ...

J. Support Coordination. Support coordination shall be reimbursed at a fixed monthly rate in accordance with the terms of the established contract.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Office for Citizens with Developmental Disabilities, LR 32:1607 (September 2006), amended LR 34:

Implementation of the provisions of this Rule shall be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services.

Interested persons may submit written comments to Kathy Kliebert, Office for Citizens with Developmental Disabilities, P.O. Box 3117, Baton Rouge, LA 70821-3117. She is responsible for responding to inquiries regarding this Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

Roxane A. Townsend, M.D.
Secretary

0801#076

DECLARATION OF EMERGENCY

Department of Health and Hospitals Office of the Secretary Office for Citizens with Developmental Disabilities

Targeted Case Management—Individuals with
Developmental Disabilities
(LAC 50:XV.10501, 10505 and 11701)

The Department of Health and Hospitals, Office of the Secretary, Office for Citizens with Developmental Disabilities proposes to amend LAC 50:XV.10501, 10505 and 11701 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopted provisions governing case management services provided to targeted population groups and certain home and community-based services waiver recipients (*Louisiana Register*, Volume 25, Number 7). In May 2004, the bureau repromulgated the July 1999 Rule in a codified format in Title 50 of the *Louisiana Administrative Code* (*Louisiana Register*, Volume 30, Number 5). The Department of Health and Hospitals, Office of the Secretary, Office for Citizens with Developmental Disabilities implemented a new home and community-based services waiver for persons with developmental disabilities, called the supports waiver. The department amended the provisions governing targeted case management to include recipients receiving services in the supports waiver and to change the name of the Mentally Retarded/Developmentally Disabled Waiver (*Louisiana Register*, Volume 32, Number 9). Case management services for supports waiver recipients are currently being paid from all state general funds pending approval of the associated Medicaid State Plan Amendment. The department by Emergency Rule amended the provisions of the September 20, 2006 Rule governing targeted case management to remove the coverage of case management services for supports waiver recipients (*Louisiana Register*, Volume 33, Number 6). Case management services shall be provided as support coordination services and included as a covered service in the Supports Waiver Program. This Emergency Rule is being promulgated to continue the provisions of the June 20, 2007 Emergency Rule. This action is being taken to secure enhanced federal funding and eliminate the reliance on state general funds for case management services provided to supports waiver recipients.

Effective February 17, 2008, the Department of Health and Hospitals, Office of the Secretary, Office for Citizens with Developmental Disabilities amends the provisions governing targeted case management to remove the coverage of case management services for supports waiver recipients.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part XV. Services for Special Populations

Subpart 7. Targeted Case Management

Chapter 105. Provider Participation

§10501. Participation Requirements

A. - D.7. ...

8. assure the recipient's right to elect to receive or terminate case management services (except for recipients in the New Opportunities Waiver, Elderly and Disabled Adult Waiver and Children's Choice Waiver Programs). Assure that each recipient has freedom of choice in the selection of an available case management agency (every six months), a qualified case manager or other service providers and the right to change providers or case managers;

9. - 12. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Community Supports and Services, LR 30:1037 (May 2004), amended by the Department of Health and Hospitals, Office of the Secretary, Office for Citizens with Developmental Disabilities, LR 32:1608 (September 2006), LR 34:

§10505. Staff Education and Experience

A. - E.1.d. ...

- e. Targeted EPSDT; and
- f. Children's Choice Waiver.
- g. Repealed.

2. - 2.e. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Community Supports and Services, LR 29:38 (January 2003), LR 30:1038 (May 2004), amended by the Department of Health and Hospitals, Office of the Secretary, Office for Citizens with Developmental Disabilities, LR 32:1608 (September 2006), LR 34:

Chapter 117. Individuals with Developmental Disabilities

§11701. Introduction

A. The targeted population for case management services shall consist of individuals with developmental disabilities who are participants in the new opportunities waiver.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:1043 (May 2004), amended by the Department of Health and Hospitals, Office of the Secretary, Office for Citizens with Developmental Disabilities, LR 32:1608 (September 2006), LR 34:

Implementation of the provisions of this Rule shall be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services.

Interested persons may submit written comments to Kathy Kliebert, Office for Citizens with Developmental Disabilities, P.O. Box 3117, Baton Rouge, LA 70821-3117. She is the person responsible for responding to inquiries regarding this Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

Roxane A. Townsend, M.D.
Secretary

0801#068

DECLARATION OF EMERGENCY

**Department of Public Safety and Corrections
State Uniform Construction Code Council**

State Uniform Construction Code
(LAC 55:VI.301)

The Louisiana Department of Public Safety and Corrections, Louisiana State Uniform Construction Code Council hereby adopts the following Emergency Rule governing the implementation of Act 12 of the 2005 First Extraordinary Session and Act 335 of the 2007 Regular Legislative Session, R.S. 40:1730.21 et seq. This Rule is being adopted in accordance with the Emergency Rule provisions of R.S. 49:953(B) of the Administrative Procedure Act. This Emergency Rule becomes effective on the date of the signature, December 19, 2007, by the authorized representative of the Louisiana State Uniform

Construction Council and shall remain in effect for the maximum period allowed by the APA, which is 120 days.

As a result of the widespread damage caused by Hurricanes Rita and Katrina, the legislature enacted and mandated a state uniform construction code to promote public safety and building integrity. This new code went into effect statewide on January 1, 2007. The Louisiana State Uniform Construction Code Council ("council") promulgated rules governing the adoption of the state uniform construction code. The council instituted, in the regular rulemaking process, a Rule pertaining to the International Residential Code, more specifically Chapter 3, §301.A.3. Prior editions of the International Residential Code allowed the structure to be placed closer to the side property lines than the current edition of the International Residential Code (IRC). The adoption of the 2006 IRC is impeding the rebuilding of certain one and two family dwellings or townhouses on existing lots. Therefore, this Section is being amended to immediately allow the rebuilding of certain structures in existence prior to the hurricanes to eliminate further reduction of footprint area.

Title 55

PUBLIC SAFETY

Part VI. Uniform Construction Code

Chapter 3. Adoption of the Louisiana State Uniform Construction Code

§301. Louisiana State Uniform Construction Code

A. - A.2. ...

3. International Residential Code, 2006 Edition, not including Parts I-Administrative, V-Mechanical, VII-Plumbing and VIII-Electrical. The applicable standards referenced in that code are included for regulation of construction within this state. Appendix J, Existing Buildings and Structures, is also included for mandatory regulation.

a. For purposes of this Part, Section R301.2.1.1 of the 2003 edition of the International Residential Code is hereby specifically adopted in lieu of the 2006 edition and shall be effective until January 1, 2008.

b. Furthermore, IRC R301.2.1.1 (Design Criteria) shall be amended as follows and shall only apply to the International Residential Code:

i. amendment of R301.2.1.1 (Design Criteria);

ii. item 6, the American Concrete Institute, *Guide to Concrete Masonry Residential Construction in High Winds Areas*, shall be added;

iii. item 7, Institute for Business and Home Safety, *Optional Code-plus Fortified for Safer Living*, shall be added.

iv. item 8, *Federal Alliance for Safe Homes, Optional Code-plus Blueprint for Safety*, shall be added.

c. Additionally, Section R302, R302.1, Exterior Walls shall be amended to add the following exception. Exceptions: on lots that are 50 feet or less in width and that contain a one, or two family dwelling or townhouse that was in existence prior to October 1, 2005, the following are permitted for rebuilding:

i. a projection 2 feet from the property line with a one hour minimum fire-resistance rating.

ii. a wall 3 feet or more from the property with a 0 hour minimum fire-resistance rating.

4 - 7. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1730.22(C) and (D).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, State Uniform Construction Code Council, LR 33:291 (February 2007), amended LR 34:

Paeton L. Burkett
Attorney

0801#005

DECLARATION OF EMERGENCY

Department of Public Safety and Corrections State Uniform Construction Code Council

State Uniform Construction Code
(LAC 55:VI.301)

The Louisiana Department of Public Safety and Corrections, Louisiana State Uniform Construction Code Council hereby adopts the following Emergency Rule governing the implementation of Act 12 of the 2005 First Extraordinary Session and Act 335 of the 2007 Regular Legislative Session, R.S. 40:1730.21 et seq. This Rule is being adopted in accordance with the Emergency Rule provisions of R.S. 49:953(B) of the Administrative Procedure Act. This Emergency Rule becomes effective on the date of the signature by the authorized representative of the Louisiana State Uniform Construction Council and shall remain in effect for the maximum period allowed by the APA, which is 120 days.

As a result of the widespread damage caused by Hurricanes Rita and Katrina, the legislature enacted and mandated a state uniform construction code to promote public safety and building integrity. This new code went into effect statewide on January 1, 2007. The Louisiana State Uniform Construction Code Council ("council") promulgated rules governing the adoption of the state uniform construction code. The council instituted, in the regular rulemaking process, a Rule pertaining to the International Residential Code, more specifically Chapter 3, §301.A.3. Prior editions of the International Residential Code allowed the structure to be placed closer to the side property lines than the current edition of the International Residential Code (IRC). The adoption of the 2006 IRC is impeding the rebuilding of certain one and two family dwellings or townhouses on existing lots. Therefore, this Rule is being amended to immediately allow the rebuilding of certain structures in existence prior to the hurricanes to eliminate further reduction of footprint area. This Rule will replace the Emergency Rule signed December 19, 2007. This Rule is identical to that Rule except that the language "on the underside" has been added to Exception 4i.

Title 55

PUBLIC SAFETY

Part VI. Uniform Construction Code

Chapter 3. Adoption of the Louisiana State Uniform Construction Code

§301. Louisiana State Uniform Construction Code

A. - A.2. ...

3. International Residential Code, 2006 Edition, not including Parts I-Administrative, V-Mechanical, VII-Plumbing and VIII-Electrical. The applicable standards

referenced in that code are included for regulation of construction within this state. Appendix J, Existing Buildings and Structures, is also included for mandatory regulation.

a. For purposes of this Part, §R301.2.1.1 of the 2003 edition of the International Residential Code is hereby specifically adopted in lieu of the 2006 edition and shall be effective until January 1, 2008.

b. Furthermore, IRC R301.2.1.1 (Design Criteria) shall be amended as follows and shall only apply to the International Residential Code:

i. amendment of R301.2.1.1 (Design Criteria);

ii. item 6, the American Concrete Institute, *Guide to Concrete Masonry Residential Construction in High Winds Areas*, shall be added;

iii. item 7, Institute for Business and Home Safety, *Optional Code-plus Fortified for Safer Living*, shall be added;

iv. item 8, *Federal Alliance for Safe Homes, Optional Code-plus Blueprint for Safety*, shall be added.

c. Additionally, §R302, R302.1, Exterior Walls shall be amended to add the following exception. Exceptions: on lots that are 50 feet or less in width and that contain a one, or two family dwelling or townhouse that was in existence prior to October 1, 2005, the following are permitted for rebuilding:

i. a projection 2 feet from the property line with a one hour minimum fire-resistance rating on the underside;

ii. a wall 3 feet or more from the property with a 0 hour minimum fire-resistance rating.

4 - 7. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1730.22(C) and (D).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, State Uniform Construction Code Council, LR 33:291 (February 2007), amended LR 34:

Paeton L. Burkett
Attorney

0801#087

DECLARATION OF EMERGENCY

Department of Revenue Policy Services Division

Payment of Taxes by Credit or Debit Cards; Other (LAC 61:III.1532)

Under the authority of R.S. 47:1511, R.S. 47:1519 and, in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Revenue, Policy Services Division, issues an Emergency Rule to adopt LAC 61.III.1532, Payment of Taxes by Credit or Debit Cards; Other, to provide special provisions for payment of taxes by credit or debit cards. This Emergency Rule, effective December 12, 2007, shall remain in effect for a period of 120 days or until this Rule takes effect through the normal promulgation process, whichever comes first.

The Department of Revenue has determined that this emergency action is necessary to identify matters and errors related to payments of taxes by credit or debit cards. Specifically, this Emergency Rule provides that when a

credit or debit card is accepted as a method of payment of taxes, matters concerning the payment are subject to the applicable error resolution procedures of the Truth in Lending Act, the Electronic Fund Transfer Act, or similar provisions of state law, only for the purpose of resolving errors relating to the credit card or debit card account, but not for resolving any errors, disputes, or adjustments relating to the underlying tax liability. This Emergency Rule also provides the limited purposes and activities for which information relating to payment, or processing of payment, of taxes by credit and debit card may be used or disclosed by card issuers, financial institutions, and other persons involved in the transaction. A delay in adopting this Rule could have an adverse impact on taxpayers and other persons who are unaware of the special provisions and procedures that apply when a credit or debit card is used to make a tax payment.

Title 61

REVENUE AND TAXATION

Part III. Department of Revenue—Administrative Provisions and Miscellaneous

Chapter 15. Electronic Filing and Payments

§1532. Payment of Taxes by Credit or Debit Cards; Other

A. Authority to Receive Payment

1. Payments by Credit or Debit Card. All taxes due under any state law that the secretary is authorized to collect may be paid by credit card or debit card as authorized by this Section. Payment of taxes by credit or debit card is voluntary on the part of the taxpayer. Only credit cards or debit cards from a nationally recognized institution may be used for this purpose, and all such payments must be made in the manner and in accordance with the forms, instructions and procedures prescribed by the secretary. All references in this regulation to tax also include interest, penalties, fees, payments, additional amounts, and additions to tax.

2. Payments by Electronic Funds Transfer Other than Credit or Debit Card. Payment by electronic funds transfer other than payment by credit card or debit card is currently authorized by R.S. 47:1519. Specific provisions relating to payments by electronic funds transfer other than payment by credit or debit card are contained in R.S. 47:1519 and the regulation promulgated pursuant to R.S. 47:1519, LAC 61:I.4910 (Electronic Funds Transfer). Thus, this regulation only provides for payments of taxes by credit and debit card. Louisiana Revised Statute 47:1519 and LAC 61:I.4910 shall remain the authorities for payment by electronic funds transfer other than payment by credit card and debit card.

B. Definitions

Credit Card—any credit card as defined in Section 103(k) of the Truth in Lending Act (15 U.S.C. 1602(k)), including any credit card, charge card, or other credit device issued for the purpose of obtaining money, property, labor, or services on credit.

Debit Card—any accepted card or other means of access as defined in Section 903(1) of the Electronic Fund Transfer Act (15 U.S.C. 1693a(1)), including any debit card or similar device or means of access to an account issued for the purpose of initiating electronic fund transfers to obtain money, property, labor, or services.

Electronic Funds Transfer—any transfer of funds, other than a transaction originated by check, draft, or similar paper

instrument, that is initiated electronically so as to order, instruct, or authorize a financial institution to debit or credit an account and is accomplished by an automated clearinghouse debit or automated clearinghouse credit. The term *financial institution* includes a state or national bank, a state or federal savings and loan association, and a state or federal credit union. A credit or debit card issued by a financial institution is used to initiate an electronic funds transfer.

Payment—any amount paid to the Department of Revenue representing a tax, fee, interest, penalty, or other amount.

Secretary—the Secretary of the Department of Revenue or the secretary's representative.

Underlying Tax Liability—the total amount of tax owed by a taxpayer and due to the secretary.

C. **Payment Deemed Made.** A payment of tax by credit or debit card shall be deemed made when the issuer of the credit or debit card properly authorizes the transaction, provided that the payment is actually received by the secretary in the ordinary course of business and is not returned because of an error relating to the credit or debit card account as described in Subsection E of this Section.

D. **Payment Not Made.** No taxpayer making any payment of tax by credit or debit card to the secretary is relieved from liability for the underlying tax obligation except to the extent that the secretary receives final payment of the underlying tax obligation in cash or the equivalent. If final payment is not made by the credit or debit card issuer or other guarantor of payment in the debit or credit card transaction, the underlying tax obligation shall survive, and the secretary shall retain all special and alternative remedies or procedures for enforcement which would have applied if the debit or credit card transaction had not occurred and may proceed to enforce the collection of any taxes due. This continuing liability of the taxpayer is in addition to, and not in lieu of, any liability of the issuer of the credit or debit card or financial institution to the state of Louisiana. No person, by contract or otherwise, may modify the provisions of this Subsection.

E. **Resolution of Errors Relating to the Credit Card or Debit Card Account**

1. **Applicable Procedures.** In general, payments of taxes by credit or debit card shall be subject to the applicable error resolution procedures of Section 161 of the Truth in Lending Act (15 U.S.C. 1666), Section 908 of the Electronic Fund Transfer Act (15 U.S.C. 1693f), or any similar provisions of state law, for the purpose of resolving errors relating to the credit or debit card account, but not for the purpose of resolving any errors, disputes or adjustments relating to the underlying tax liability. Thus, nontax matters related to payment by credit or debit cards are to be resolved by persons ultimately liable for payment and financial intermediaries, without the involvement of the secretary.

2. **Matters Covered by Error Resolution Procedures.** The error resolution procedures of Paragraph E.1 of this Section apply to the following types of errors:

a. an incorrect amount posted to the taxpayer's credit or debit card account as a result of a computational error, numerical transposition, or similar mistake;

b. an amount posted to the wrong taxpayer's credit or debit card account;

c. a transaction posted to the taxpayer's credit or debit card account without the taxpayer's authorization; and

d. other similar types of nontax errors relating to the taxpayer's credit or debit card account that would be subject to resolution under Section 161 of the Truth in Lending Act (15 U.S.C. 1666), Section 908 of the Electronic Fund Transfer Act (15 U.S.C. 1693f), or similar provisions of state law.

3. **No Basis for Claim or Defense against Secretary or State.** An error described in this Subsection may be resolved only through the applicable error resolution procedures of Section 161 of the Truth in Lending Act (15 U.S.C. 1666), Section 908 of the Electronic Fund Transfer Act (15 U.S.C. 1693f), or similar provisions of state law, as set forth in Subsection F of this Section and shall not be a basis for any claim or defense in any administrative or court proceeding involving the secretary or the state of Louisiana.

F. **Return of Funds Pursuant to Error Resolution Procedures.** If a person is owed an amount because of the correction of an error under the error resolution procedures of Paragraph E.1 of this Section, the secretary may, in the secretary's sole discretion, return the amount to the person by arranging for a credit to that person's credit or debit card account with the issuer of the credit or debit card or any other financial institution or person that participated in the credit or debit card transaction in which the error occurred. Returns of funds through credit or debit card credits are only available to correct errors relating to the credit or debit card account, and not to refund overpayments of taxes.

G. **Tax Matters not Subject to Error Resolution Procedures.** The error resolution procedures of Paragraph E.1 of this Section do not apply to any error, question, dispute, or any other matter concerning the amount of tax owed by any person for any taxable period. The error resolution procedures do not apply to determine a taxpayer's entitlement to a refund of tax for any taxable period for any reason. The error resolution procedures cannot be used to refund an overpayment of taxes. All tax matters that have been delegated to the secretary and the Department of Revenue shall be resolved by the secretary, without the involvement of financial intermediaries, through the administrative and judicial procedures established pursuant to Title 47 of the Louisiana Revised Statutes of 1950, as amended, and regulations promulgated pursuant to the Administrative Procedure Act. Thus, credit card and debit card issuers, financial institutions, other intermediaries and processing mechanisms are excluded from the resolution of an error when the alleged error involves the underlying tax liability, as opposed to the credit or debit card account.

1. **Rights of Credit Card Customers.** Payments of taxes by credit or debit card are not subject to Section 170 of the Truth in Lending Act (15 U.S.C. 1666i) or to any similar provision of state law.

2. **Creditor.** The term *creditor* under Section 103(f) of the Truth in Lending Act (15 U.S.C. 1602(f)) does not include the secretary with respect to credit or debit card transactions in payment of any tax that the secretary is authorized to administer, enforce or collect.

H. **Service Fee for Using Debit or Credit Card.** At the time of payment, the service fee for the use of a credit or debit card shall be charged to the taxpayer and shall be collectible as part of the taxpayer's liability. The charge,

however, shall not exceed the fee charged by the debit or credit card issuer, including any discount rate.

I. Authority to Enter into Contracts. The secretary may enter into contracts for the purpose of implementing a system to provide a convenient electronic method for receiving payments of taxes by credit or debit card.

J. Use and Disclosure of Information Relating to Payment by Credit or Debit Card. Any information or data obtained directly or indirectly by any person other than the taxpayer in connection with payment of taxes by a credit or debit card is subject to the confidentiality restrictions of R.S. 47:1508, whether the information is received from the Department of Revenue or from any other person, including the taxpayer.

1. No person other than the taxpayer shall use or divulge the information except as follows.

a. Credit or debit card issuers, financial institutions, or other persons participating in the credit card or debit card transaction may use or disclose such information for the purpose and in direct furtherance of servicing cardholder accounts, including the resolution of errors in accordance with Subsection E of this Section. This authority includes the following:

i. processing the credit or debit card transaction, in all of its stages through and including the crediting of the amount charged on account of tax to the Department of Revenue;

ii. billing the taxpayer for the amount charged or debited with respect to payment of the tax liability;

iii. collecting the amount charged or debited with respect to payment of the tax liability;

iv. returning funds to the taxpayer in accordance with Subsection F of this Section;

v. sending receipts or confirmation of a transaction to the taxpayer, including secured electronic transmissions and facsimiles; and

vi. providing information necessary to make a payment to the secretary, as explicitly authorized by the taxpayer (e.g., name, address, Social Security number, taxpayer identification number).

b. Notwithstanding the provisions of Paragraph J.1 of this Subsection, use or disclosure of information relating to credit and debit card transactions for purposes related to any of the following is not authorized:

i. the sale, or transfer for consideration, of confidential information separate from a sale or transfer for consideration of the underlying account or receivable;

ii. marketing for any purpose, such as marketing tax-related products or services or marketing any product or service that targets persons who have used a credit or debit card to pay taxes; and

iii. furnishing the information to any credit reporting agency or credit bureau, except with respect to the aggregate amount of a cardholder's account, with the amount attributable to payment of taxes not separately identified.

2. Any person who uses or discloses the information contrary to the provisions of R.S. 47:1508 and other than as authorized by this Subsection shall be guilty of a misdemeanor and, upon conviction, can be fined up to \$10,000 or be imprisoned for up to two years, or both.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1519 and R.S. 47:1577.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Policy Services Division, LR 34:

Cynthia Bridges
Secretary

0801#001

DECLARATION OF EMERGENCY

Department of Revenue Tax Commission

Ad Valorem Taxation
(LAC 61:V.907, 1103, 2503, 2711 and 3105)

Editor's Note: The following Sections are being repromulgated to correct errors. The original Emergency Rule may be viewed in its entirety on pages 2566-2588 in the December 20, 2007 *Louisiana Register*.

The Louisiana Tax Commission, at its meetings on September 19, 2007 and October 31, 2007, exercised the emergency provisions of the Administrative Procedure Act, R.S. 49:953(B), and pursuant to its authority under R.S. 47:1837, adopted the following additions, deletions and amendments to the Real/Personal Property Rules and Regulations.

This Emergency Rule is necessary in order for ad valorem tax assessment tables to be disseminated to property owners and local tax assessors no later than the statutory valuation date of record of January 1, 2008. Cost indexes required to finalize these assessment tables are not available to this office until late October 2007. The effective date of this Emergency Rule is January 1, 2008.

Title 61

REVENUE AND TAXATION

Part V. Ad Valorem Taxation

Chapter 9. Oil and Gas Properties

§907. Tables—Oil and Gas

A. The Cost-New schedules below cover only that portion of the well subject to ad valorem taxation. External (economic) and/or functional obsolescence is a loss in value of personal property above and beyond physical deterioration. Upon a showing of evidence of such loss, substantiated by the taxpayer in writing, external (economic) and/or functional obsolescence shall be included in the assessor's determination of fair market value.

Instructions for Use of Tables 907.A-1, 907.A-2 and 907.A-3 and

Procedure for Arriving at Assessed Value

1. Determine if well is located in Region 1 by reference to Table 907.B-1. See note for Region 2 or Region 3 (offshore state waters) wells.
2. Multiply depth of well by appropriate 15 percent of Cost-New amount as indicated in Table 907.A-1, 907.A-2 or 907.A-3.
3. Multiply the appropriate percent good factor based on age of the well as found in Table 907.B-2.
4. Use Oil cost-new to assess all active service wells for region where located.
5. See explanations in Section 901.E regarding the assessment of multiple completion wells.
6. For wells recompleted, use new perforation depth to determine fair market value.

1. Oil, Gas and Associated Wells; Region 1—North Louisiana

Table 907.A.1 Oil, Gas and Associated Wells; Region 1—North Louisiana				
Producing Depths	Cost—New By Depth, Per Foot		15% of Cost—New By Depth, Per Foot	
	\$ Oil	\$ Gas	\$ Oil	\$ Gas
0-1,249 ft.	28.95	101.28	4.34	15.19
1,250-2,499 ft.	26.12	74.48	3.92	11.17
2,500-3,749 ft.	20.53	49.32	3.08	7.40
3,750-4,999 ft.	28.39	49.15	4.26	7.37
5,000-7,499 ft.	33.40	47.97	5.01	7.20
7,500-9,999 ft.	73.22	64.66	10.98	9.70
10,000-12,499 ft.	213.52	78.44	32.03	11.77
12,500-14,999 ft.	N/A	118.44	N/A	17.77
15,000-Deeper ft.	N/A	135.05	N/A	20.26

2. Oil, Gas and Associated Wells; Region 2—South Louisiana

Table 907.A.2 Oil, Gas and Associated Wells; Region 2—South Louisiana				
Producing Depths	Cost—New By Depth, Per Foot		15% of Cost—New By Depth, Per Foot	
	\$ Oil	\$ Gas	\$ Oil	\$ Gas
0-1,249 ft.	222.50	100.62	33.38	15.09
1,250-2,499 ft.	76.83	167.24	11.52	25.09
2,500-3,749 ft.	75.02	133.34	11.25	20.00
3,750-4,999 ft.	66.14	106.67	9.92	16.00
5,000-7,499 ft.	90.35	121.16	13.55	18.17
7,500-9,999 ft.	123.26	126.85	18.49	19.03
10,000-12,499 ft.	168.08	165.82	25.21	24.87
12,500-14,999 ft.	220.48	214.53	33.07	32.18
15,000-17,499 ft.	357.13	287.22	53.57	43.08
17,500-19,999 ft.	436.05	406.84	65.41	61.03
20,000-Deeper ft.	232.84	610.80	34.93	91.62

3. Oil, Gas and Associated Wells; Region 3—Offshore State Waters

Table 907.A.3 Oil, Gas and Associated Wells; Region 3—Offshore State Waters*				
Producing Depths	Cost—New By Depth, Per Foot		15% Of Cost—New By Depth, Per Foot	
	\$ Oil	\$ Gas	\$ Oil	\$ Gas
0 -1,249 ft.	N/A	N/A	N/A	N/A
1,250 -2,499 ft.	1,115.34	814.97	167.30	122.25
2,500 -3,749 ft.	573.52	626.33	86.03	93.95
3,750 -4,999 ft.	818.64	574.32	122.80	86.15
5,000 -7,499 ft.	407.39	531.94	61.11	79.79
7,500 -9,999 ft.	516.50	503.37	77.48	75.51
10,000 -12,499 ft.	584.72	510.25	87.71	76.54
12,500 -14,999 ft.	508.54	496.56	76.28	74.48
15,000 -17,499 ft.	350.52	515.24	52.58	77.29
17,500 - 19,999 ft.	N/A	492.58	N/A	73.89
20,000 - Deeper ft.	N/A	774.29	N/A	116.14

B. The determination of whether a well is a Region 2 or Region 3 well is ascertained from its onshore/offshore status as designated on the Permit to Drill or Amended Permit to Drill form (Location of Wells Section), located at the Department of Natural Resources as of January 1 of each tax year. Each assessor is required to confirm the onshore/offshore status of wells located within their parish by referring to the Permit to Drill or Amended Permit to Drill form on file at the Department of Natural Resources. The listing of each well and their onshore/offshore status

will also be posted on the Louisiana Tax Commission website on or before January 15 of each respective tax year.

1. Parishes Considered to be Located in Region I

Table 907.B.1 Parishes Considered to be Located in Region 1			
Bienville	DeSoto	Madison	Tensas
Bossier	East Carroll	Morehouse	Union
Caddo	Franklin	Natchitoches	Webster
Caldwell	Grant	Ouachita	West Carroll
Catahoula	Jackson	Red River	Winn
Claiborne	LaSalle	Richland	
Concordia	Lincoln	Sabine	

NOTE: All wells in parishes not listed above are located in Region 2 or Region 3.

2. Serial Number to Percent Good Conversion Chart

Table 907.B.2 Serial Number to Percent Good Conversion Chart			
Year	Beginning Serial Number	Ending Serial Number	33 Year Life Percent Good
2007	234780	Higher	96
2006	232639	234779	92
2005	230643	232638	88
2004	229010	230642	84
2003	227742	229009	80
2002	226717	227741	76
2001	225352	226716	72
2000	223899	225351	68
1999	222882	223898	64
1998	221596	222881	60
1997	220034	221595	56
1996	218653	220033	52
1995	217588	218652	48
1994	216475	217587	44
1993	215326	216474	40
1992	214190	215325	36
1991	212881	214189	32
1990	211174	212880	28
1989	209484	211173	24
1988	Lower	209483	20*
VAR.	900000	Higher	50

*Reflects residual or floor rate.

NOTE: For any serial number categories not listed above, use year well completed to determine appropriate percent good. If spud date is later than year indicated by serial number; or, if serial number is unknown, use spud date to determine appropriate percent good.

3. Adjustments for Allowance of External (Economic) Obsolescence

a. All wells producing 10 bbls oil or 100 mcf gas, or less, per day, as well as, all active service wells (i.e., injection, salt water disposal, water source, etc.) shall be allowed a 40 percent reduction. Taxpayer shall provide the assessor with proper documentation to claim this reduction.

b. All inactive (shut-in) wells shall be allowed a 90 percent reduction.

c. Deduct any additional obsolescence that has been appropriately documented by the taxpayer, as warranted, to reflect fair market value.

d. All oil and gas property assessments may be based on an individual cost basis.

e. Sales, properly documented, should be considered by the assessor as fair market value, provided the sale meets all tests relative to it being a valid sale.

C. Surface Equipment

1. Listed below is the cost-new of major items used in the production, storage, transmission and sale of oil and gas. Any equipment not shown shall be assessed on an individual basis.

2. All surface equipment, including other property associated or used in connection with the oil and gas industry in the field of operation, must be rendered in accordance with guidelines established by the Tax Commission and in accordance with requirements set forth on LAT Form 12- Personal Property Tax Report - Oil and Gas Property.

3. Oil and gas personal property will be assessed in 7 major categories, as follows:

- a. oil, gas and associated wells;
- b. oil and gas equipment (surface equipment);
- c. tanks (surface equipment);
- d. lines (oil and gas lease lines);
- e. inventories (material and supplies);
- f. field improvements (docks, buildings, etc.);
- g. other property (not included above).

4. The cost-new values listed below are to be adjusted to allow depreciation by use of the appropriate percent good listed in Table 907.B-2. The average age of the well/lease/field will determine the appropriate year to be used for this purpose.

5. External (economic) and/or functional obsolescence is a loss in value of personal property above and beyond physical deterioration. Upon a showing of evidence of such loss, substantiated by the taxpayer in writing, external (economic) and/or functional obsolescence shall be included in the assessor's determination of fair market value. A minimum obsolescence shall be recognized with a service factor calculated using the following formula summarized in intervals in Table 907.C-3.

$$\text{Service Factor} = (\text{Actual Throughput}/\text{Rated Capacity})^{0.6}$$

6. Sales, properly documented, should be considered by the assessor as fair market value, provided the sale meets all tests relative to it being a valid sale.

Property Description	\$ Cost New
(1) Actuators—(See Metering Equipment)	(2)
Automatic Control Equipment—(See Safety Systems)	
Automatic Tank Switch Unit—(See Metering Equipment)	
Barges - Concrete—(Assessed on an individual basis)	
Barges - Storage—(Assessed on an individual basis)	
Barges - Utility—(Assessed on an individual basis)	
Barges - Work—(Assessed on an individual basis)	
Communication Equipment—(See Telecommunications)	
Dampeners—(See Metering Equipment - "Recorders")	(3)
DESORBERS—(No metering equipment included):	
(4) 125#	94,050
300#	103,700
500#	118,000
(5) Destroilets—(See Metering Equipment - "Regulators")	
Desurgers—(See Metering Equipment - "Regulators")	
Desilters—(See Metering Equipment - "Regulators")	
Diatrollers—(See Metering Equipment - "Regulators")	
Docks, Platforms, Buildings—(Assessed on an individual basis)	

Property Description	\$ Cost New
Dry Dehydrators (Driers)—(See Scrubbers)	
Engines-Unattached—(Only includes engine & skids):	(6)
Per Horsepower	(7) 3
	00
(2) Evaporators—(Assessed on an individual basis)	
Expander Unit—(No metering equipment included):	34,500
Per Unit	
(8) Flow Splitters—(No metering equipment included):	(3)
48 In. Diameter Vessel	(4) 1
72 In. Diameter Vessel	6,800
96 In. Diameter Vessel	(5) 2
120 In. Diameter Vessel	2,250
	(6) 3
	4,100
	(7) 4
	8,450
Fire Control System—(Assessed on an individual basis)	
Furniture & Fixtures—(Assessed on an individual basis)	(10)
(9) (Field operations only, according to location.)	
(11) Gas Compressors-Package Unit—(skids, scrubbers, cooling system, and power controls. No metering or regulating equipment.):	
(12) 50 HP and less - Per HP	1,280
51 HP to 100 HP - Per HP	1,100
101 HP and higher - Per HP	800
Property Description	\$ Cost-New
Gas Coolers—(No metering equipment);	
5,000 MCF/D	26,500
10,000 MCF/D	29,850
20,000 MCF/D	92,850
50,000 MCF/D	210,650
100,000 MCF/D	345,000
Generators—Package Unit only -(No special installation)	
Per K.W.	200
Glycol Dehydration-Package Unit—(including pressure gauge, relief valve and regulator. No other metering equipment.):	
Up to 4.0 MMCF/D	18,600
4.1 to 5.0 MMCF/D	20,750
5.1 to 10.0 MMCF/D	40,000
10.1 to 15.0 MMCF/D	55,650
15.1 to 20.0 MMCF/D	75,750
20.1 to 25.0 MMCF/D	98,500
25.1 to 30.0 MMCF/D	187,100
30.1 to 50.0 MMCF/D	209,000
50.1 to 75.0 MMCF/D	260,000
75.1 & Up MMCF/D	300,000
Heaters—(includes unit, safety valves, regulators and automatic shut-down. No metering equipment.):	
Steam Bath—Direct Heater:	
24 In. Diameter Vessel - 250,000 BTU/HR Rate	6,450
30 In. Diameter Vessel - 500,000 BTU/HR Rate	8,100
36 In. Diameter Vessel - 750,000 BTU/HR Rate	9,800
48 In. Diameter Vessel - 1,000,000 BTU/HR Rate	14,500
60 In. Diameter Vessel - 1,500,000 BTU/HR Rate	17,900
Water Bath—Indirect Heater:	
24 In. Diameter Vessel - 250,000 BTU/HR Rate	5,500
30 In. Diameter Vessel - 500,000 BTU/HR Rate	7,550
36 In. Diameter Vessel - 750,000 BTU/HR Rate	9,850
48 In. Diameter Vessel - 1,000,000 BTU/HR Rate	13,950
60 In. Diameter Vessel - 1,500,000 BTU/HR Rate	17,850
Steam—(Steam Generators):	
24 In. Diameter Vessel - 250,000 BTU/HR Rate	7,050
30 In. Diameter Vessel - 450,000 BTU/HR Rate	8,800
36 In. Diameter Vessel - 500 to 750,000 BTU/HR Rate	13,200
48 In. Diameter Vessel - 1 to 2,000,000 BTU/HR Rate	15,150
60 In. Diameter Vessel - 2 to 3,000,000 BTU/HR Rate	17,150
72 In. Diameter Vessel - 3 to 6,000,000 BTU/HR Rate	27,100
96 In. Diameter Vessel - 6 to 8,000,000 BTU/HR Rate	32,550
Heat Exchange Units-Skid Mounted—(See Production Units)	

Table 907.C.1 Surface Equipment	
Property Description	\$ Cost New
Heater Treaters—(Necessary controls, gauges, valves and piping. No metering equipment included.): Heater - Treaters - (Non-metering):	
4 x 20 ft.	14,100
4 x 27 ft.	18,150
6 x 20 ft.	19,000
6 x 27 ft.	23,900
8 x 20 ft.	30,450
8 x 27 ft.	35,650
10 x 20 ft.	40,250
10 x 27 ft.	47,350
L.A.C.T. (Lease Automatic Custody Transfer) – See Metering Equipment)	
JT Skid (Low Temperature Extraction) - (includes safety valves, temperature controllers, chokes, regulators, metering equipment, etc. - complete unit.):	
Up to 2 MMCF/D	35,000
Up to 5 MMCF/D	50,000
Up to 10 MMCF/D	120,000
Up to 20 MMCF/D	200,000
Liqua Meter Units—(See Metering Equipment)	
Manifolds—(See Metering Equipment)	
Material & Supplies-Inventories—(Assessed on an individual basis)	
Meter Calibrating Vessels—(See Metering Equipment)	
Meter Prover Tanks—(See Metering Equipment)	
Meter Runs—(See Metering Equipment)	
Meter Control Stations—(not considered Communication Equipment) - (Assessed on an individual basis)	
Metering Equipment	
Actuators—hydraulic, pneumatic & electric valves	5,450
Controllers—time cycle valve - valve controlling device (also known as Intermitter)	1,700
Fluid Meters:	
1 Level Control	
24 In. Diameter Vessel - 1/2 bbl. Dump	4,150
30 In. Diameter Vessel - 1 bbl. Dump	5,350
36 In. Diameter Vessel - 2 bbl. Dump	7,400
2 Level Control	
20 In. Diameter Vessel - 1/2 bbl. Dump	3,900
24 In. Diameter Vessel - 1/2 bbl. Dump	4,700
30 In. Diameter Vessel - 1 bbl. Dump	5,900
36 In. Diameter Vessel - 2 bbl. Dump	7,950
L.A.C.T. & A.T.S. Units:	
30 lb. Discharge	26,200
60 lb. Discharge	29,850
Manifolds—Manual Operated:	
High Pressure	
per well	20,550
per valve	6,950
Low Pressure	
per well	9,950
per valve	3,300
Manifolds—Automatic Operated:	
High Pressure	
per well	37,150
per valve	12,250
Low Pressure	
per well	26,500
per valve	8,950
NOTE: Automatic Operated System includes gas hydraulic and pneumatic valve actuators, (or motorized valves), block valves, flow monitors-in addition to normal equipment found on manual operated system. No Metering Equipment Included.	

Table 907.C.1 Surface Equipment	
Property Description	\$ Cost New
Manifolds—Automatic Operated:	
High Pressure	
per well	37,150
per valve	12,250
Low Pressure	
per well	26,500
per valve	8,950
NOTE: Automatic Operated System includes gas hydraulic and pneumatic valve actuators, (or motorized valves), block valves, flow monitors-in addition to normal equipment found on manual operated system. No Metering Equipment Included.	
Meter Runs—piping, valves & supports – no meters:	
2 In. piping & valve	5,600
3 In. piping & valve	6,300
4 In. piping & valve	7,600
6 In. piping & valve	10,600
8 In. piping & valve	15,920
10 In. piping & valve	21,200
12 In. piping & valve	26,500
14 In. piping & valve	36,100
16 In. piping & valve	47,150
18 In. piping & valve	58,400
20 In. piping & valve	75,900
22 In. piping & valve	95,650
24 In. piping & valve	117,100
Metering Vessels (Accumulators):	
1 bbl. calibration plate (20 x 9)	3,250
5 bbl. calibration plate (24 x 10)	3,500
7.5 bbl. calibration plate (30 x 10)	4,900
10 bbl. calibration plate (36 x 10)	6,100
Recorders (Meters)—Includes both static element and tube drive pulsation dampener-also one and two pen operations.	
per meter	2,250
Solar Panel (also see Telecommunications)	
per unit (10' x 10')	300
Pipe Lines—Lease Lines	
Steel	
2 In. nominal size - per mile	16,300
2 1/2 In. nominal size - per mile	21,950
3 & 3 1/2 In. nominal size - per mile	28,000
4, 4 1/2 & 5 In. nominal size - per mile	48,150
6 In. nominal size - per mile	70,700
Poly Pipe	
2 In. nominal size - per mile	8,950
2 1/2 In. nominal size - per mile	12,050
3 In. nominal size - per mile	15,400
4 In. nominal size - per mile	26,450
6 In. nominal size - per mile	38,850
Plastic-Fiberglass	
2 In. nominal size - per mile	13,900
3 In. nominal size - per mile	23,800
4 In. nominal size - per mile	40,900
6 In. nominal size - per mile	60,050
NOTE: Allow 90% obsolescence credit for lines that are inactive, idle, open on both ends and dormant, which are being carried on corporate records solely for the purpose of retaining right of ways on the land and/or due to excessive capital outlay to refurbish or remove the lines.	
Pipe Stock—(Assessed on an individual basis)	
Pipe Stock - Exempt—Under La. Const., Art. X, §4 (19-C)	
Production Units:	
Class I - per unit - separator & 1 heater – 500 MCF/D	17,600
Class II - per unit - separator & 1 heater – 750 MCF/D	23,450

Table 907.C.1 Surface Equipment	
Property Description	\$ Cost New
Production Process Units—These units are by specific design and not in the same category as gas compressors, liquid and gas production units or pump-motor units. (Assessed on an individual basis.)	
Pumps—In Line per horsepower rating of motor	250
Pump-Motor Unit—pump and motor only Class I - (water flood, s/w disposal, p/l, etc.) Up to 300 HP - per HP of motor	300
Class II - (high pressure injection, etc.) 301 HP and up per HP of motor	350
Pumping Units-Conventional & Beam Balance—(Unit value includes motor) - assessed according to API designation.	
16 D	5,750
25 D	10,800
40 D	13,500
57 D	18,000
80 D	30,050
114 D	31,250
160 D	42,050
228 D	45,650
320 D	57,700
456 D	68,500
640 D	82,950
912 D	87,750
NOTE: For "Air Balance" and "Heavy Duty" units, multiply the above values by 1.30.	
(13) Regenerators (Accumulator)—(See Metering Equipment)	
Regulators: per unit	2,300
Safety Systems Onshore And Marsh Area Basic Case: well only	4,600
well & production equipment with surface op. ssv, add	7,950
Offshore 0 - 3 Miles Wellhead safety system (excludes wellhead actuators) per well	13,250
production train	33,150
glycol dehydration system	19,900
P/L pumps and LACT	46,400
Compressors	29,150
Wellhead Actuators (does not include price of the valve) 5,000 psi	3,300
10,000 psi and over	4,950
NOTE: For installation costs - add 25%	
Sampler—(See Metering Equipment - "Fluid Meters")	
Scrubbers—Two Classes Class I - Manufactured for use with other major equipment and, at times, included with such equipment as part of a package unit.	
8 In. Diameter Vessel	2,800
10 In. Diameter Vessel	4,000
12 In. Diameter Vessel	4,550
Class II - Small "in-line" scrubber used in flow system usually direct from gas well. Much of this type is "shop-made" and not considered as major scrubbing equipment.	
8 In. Diameter Vessel	1,300
12 In. Diameter Vessel	1,700
NOTE: No metering or regulating equipment included in the above.	

Table 907.C.1 Surface Equipment	
Property Description	\$ Cost New
Separators—(No metering equipment included)	
Horizontal—Filter /1,440 pci (High Pressure)	
6-5/8" OD x 5'-6"	4,100
8-5/8" OD x 7'-6"	4,450
10-3/4" OD x 8'-0"	6,250
12-3/4" OD x 8'-0"	8,400
16" OD x 8'-6"	13,500
20" OD x 8'-6"	19,950
20" OD x 12'-0"	21,000
24" OD x 12'-6"	28,300
30" OD x 12'-6"	41,300
36" OD x 12'-6"	49,100
Separators—(No metering equipment included)	
Vertical 2—Phase /125 pci (Low Pressure)	
24" OD x 7'-6"	4,650
30" OD x 10'-0"	5,000
36" OD x 10'-0"	10,450
Vertical 3—Phase /125 pci (Low Pressure)	
24" OD x 7'-6"	4,900
24" OD x 10'-0"	5,550
30" OD x 10'-0"	7,700
36" OD x 10'-0"	10,950
42" OD x 10'-0"	12,700
Horizontal 3—Phase /125 pci (Low Pressure)	
24" OD x 10'-0"	7,250
30" OD x 10'-0"	9,300
36" OD x 10'-0"	10,150
42" OD x 10'-0"	16,200
Vertical 2—Phase /1440 pci (High Pressure)	
12-3/4" OD x 5'-0"	2,750
16" OD x 5'-6"	4,100
20" OD x 7'-6"	7,800
24" OD x 7'-6"	9,450
30" OD x 10'-0"	14,400
36" OD x 10'-0"	18,650
42" OD x 10'-0"	29,850
48" OD x 10'-0"	35,200
54" OD x 10'-0"	53,300
60" OD x 10'-0"	66,650
Vertical 3 - Phase /1440 pci (High Pressure)	
16" OD x 7'-6"	4,800
20" OD x 7'-6"	8,400
24" OD x 7'-6"	9,750
30" OD x 10'-0"	15,050
36" OD x 10'-0"	19,250
42" OD x 10'-0"	31,400
48" OD x 10'-0"	36,400
Horizontal 2—Phase /1440 pci (High Pressure)	
16" OD x 7'-6"	4,700
20" OD x 7'-6"	7,550
24" OD x 10'-0"	10,300
30" OD x 10'-0"	15,850
36" OD x 10'-0"	20,100
42" OD x 15'-0"	40,800
48" OD x 15'-0"	47,050
Separators—(No metering equipment included)	
Horizontal 3—Phase /1440 pci (High Pressure)	
16" OD x 7'-6"	7,250
20" OD x 7'-6"	8,100
24" OD x 10'-0"	11,800
30" OD x 10'-0"	16,800
36" OD x 10'-0"	24,200
36" OD x 15'-0"	27,050
Offshore Horizontal 3—Phase /1440 pci (High Pressure)	
30" OD x 10'-0"	34,850
36" OD x 10'-0"	33,250
36" OD x 12'-0"	48,250
36" OD x 15'-0"	50,350
42" OD x 15'-0"	78,150

Table 907.C.1 Surface Equipment	
Property Description	\$ Cost New
Skimmer Tanks—(See Flow Tanks in Tanks section)	
Stabilizers—per unit	5,150
Sump/Dump Tanks—(See Metering Equipment - "Fluid Tanks")	
Tanks—No metering equipment	Per Barrel*
Flow Tanks (receiver or gunbarrel) 50 to 548 bbl. Range (average tank size - 250 bbl.)	32.20
Stock Tanks (lease tanks) 100 to 750 bbl. Range (average tank size – 300 bbl.)	25.00
Storage Tanks (Closed Top)	
1,000 barrel	21.30
1,500 barrel	18.80
2,000 barrel	18.30
2,001 - 5,000 barrel	16.80
5,001 - 10,000 barrel	15.80
10,001 - 15,000 barrel	14.80
15,001 - 55,000 barrel	10.35
55,001 – 150,000 barrel	7.80
Internal Floating Roof	
10,000 barrel	30.40
20,000 barrel	20.60
30,000 barrel	15.30
50,000 barrel	13.60
55,000 barrel	13.10
80,000 barrel	11.60
100,000 barrel	10.10
*I.E.: (tanks size bbls.) X (no. of bbls.) X (cost-new factor.)	
Telecommunications Equipment	
Microwave System	
Telephone & data transmission	40,000
Radio telephone	3,000
Supervisory controls:	
remote terminal unit, well	8,550
master station	19,500
towers (installed):	
heavy duty, guyed, per foot	500
light duty, guyed, per foot	40
heavy duty, self supporting, per foot	510
light duty, self supporting, per foot	110
equipment building, per sq. ft.	150
solar panels, per sq. ft.	50
Utility Compressors per horsepower - rated on motor	660
(14) Vapor Recovery Unit—No Metering Equipment	
60 MCF/D or less	17,500
105 MCF/D max	25,000
250 MCF/D max	33,000
Waterknockouts—Includes unit, backpressure valve & regulator, but, no metering equipment.	
2' diam. x 16'	4,750
3' diam. x 10'	7,100
4' diam. x 10'	9,800
6' diam. x 10'	16,050
6' diam. x 15'	18,550
8' diam. x 10'	23,250
8' diam. x 15'	26,700
8' diam. x 20'	29,600
8' diam. x 25'	32,950
10' diam. x 20'	38,750

Table 907.C.2 Service Stations Marketing Personal Property *Alternative Procedure	
Property Description	\$ Cost New
Air and Water Units:	
Above ground	1,120
Below ground	475
Air Compressors:	
1/3 to 1 H.P.	1,500
1/2 to 5 H.P.	2,530

Table 907.C.2 Service Stations Marketing Personal Property *Alternative Procedure	
Property Description	\$ Cost New
Car Wash Equipment:	
In Bay (roll over brushes)	40,250
In Bay (pull through)	62,480
Tunnel (40 to 50 ft.)	136,000
Tunnel (60 to 75 ft.)	182,000
Drive On Lifts:	
Single Post	7,350
Dual Post	8,280
Lights:	
Light Poles (each)	750
Lights - per pole unit	830
Pumps:	
Non-Electronic - self contained and/or remote controlled computer	
Single	3,180
Dual	4,730
Computerized - non-self service, post pay, pre/post pay. self contained and/or remote controlled dispensers	
Single	5,380
Dual	7,250
Read-Out Equipment (at operator of self service) Per Hose Outlet	1,180
Signs:	
Station Signs	
6 ft. lighted - installed on 12 ft. pole	3,550
10 ft. lighted - installed on 16 ft. pole	6,500
Attachment Signs (for station signs)	
Lighted "self-serve" (4 x 11 ft.)	2,960
Lighted "pricing" (5 x 9 ft.)	3,030
High Rise Signs - 16 ft. lighted - installed on:	
1 pole	10,760
2 poles	14,080
3 poles	15,750
Attachment Signs (for high rise signs)	
Lighted "self-serve" (5 x 17 ft.)	5,720
Lighted "pricing" (5 x 9 ft.)	3,030
Submerged Pumps—(used with remote control equipment, according to number used - per unit)	3,175
Tanks—(average for all tank sizes) Underground - per gallon	1.80

NOTE: The above represents the cost-new value of modern stations and self-service marketing equipment. Other costs associated with such equipment are included in improvements. Old style stations and equipment should be assessed on an individual basis, at the discretion of the tax assessor, when evidence is furnished to substantiate such action.

*This alternative assessment procedure should be used only when acquisition cost and age are unknown or unavailable. Otherwise, see general business section (Chapter 25) for normal assessment procedure.

Table 907.C-3 Service Factor (Remaining Utility) Conversion Chart		
Throughput Capacity	Obsolescence Percentage	Service Factor Percentage
95	3	97
90	6	94
85	9	91
80	13	87
75	16	84
70	19	81
65	23	77
60	26	74
55	30	70
50	34	66
45	38	62
40	42	58
35	47	53
30	51	49

Table 907.C-3 Service Factor (Remaining Utility) Conversion Chart		
Throughput Capacity	Obsolescence Percentage	Service Factor Percentage
25	56	44
20	62	38
15 or less *	65	35

* Reflects residual or floor rate.

1. First, divide Actual Throughput by Rated Capacity to determine the Throughput/Capacity Percentage.
2. Then, find that percentage in Column 1 (round to the nearest 5 percent) and multiply the depreciated cost-new assessed value of the pipeline by the percentage indicated in Column 3 to determine the amount of obsolescence indicated in Column 2.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1837 and R.S. 47:2326.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Tax Commission, LR 8:102 (February 1982), amended LR 12:36 (January 1986), LR 13:188 (March 1987), LR 13:764 (December 1987), LR 14:872 (December 1988), LR 15:1097 (December 1989), LR 16:1063 (December 1990), LR 17:1213 (December 1991), LR 19:212 (February 1993), LR 20:198 (February 1994), LR 21:186 (February 1995), LR 22:117 (February 1996), LR 23:205 (February 1997), amended by the Department of Revenue, Tax Commission, LR 24:480 (March 1998), LR 25:313 (February 1999), LR 26:507 (March 2000), LR 27:425 (March 2001), LR 28:518 (March 2002), LR 29:368 (March 2003), LR 30:488 (March 2004), LR 31:717 (March 2005), LR 32:431 (March 2006), LR 33:492 (March 2007), LR 34: (March 2008).

Chapter 11. Drilling Rigs and Related Equipment
§1103. Drilling Rigs and Related Equipment Tables

A. Land Rigs

Table 1103.A Land Rigs		
Depth "0" to 7,000 Feet		
Depth (Ft.)	Fair Market Value	Assessment
	\$	\$
3,000	630,300	94,500
4,000	750,200	112,500
5,000	980,000	147,000
6,000	1,244,800	186,700
7,000	1,669,600	250,400
Depth 8,000 to 10,000 Feet		
Depth (Ft.)	Fair Market Value	Assessment
	\$	\$
8,000	2,104,300	315,600
9,000	2,548,900	382,300
10,000	3,003,500	450,500
Depth 11,000 to 15,000 Feet		
Depth (Ft.)	Fair Market Value	Assessment
	\$	\$
11,000	3,468,100	520,200
12,000	3,942,600	591,400
13,000	4,427,100	664,100
14,000	4,921,500	738,200
15,000	5,425,900	813,900
Depth 16,000 to 20,000 Feet		
Depth (Ft.)	Fair Market Value	Assessment
	\$	\$
16,000	5,940,200	891,000
17,000	6,464,500	969,700
18,000	6,998,700	1,049,800
19,000	7,542,900	1,131,400
20,000	8,097,100	1,214,600

Table 1103.A Land Rigs		
Depth 21,000 + Feet		
Depth (Ft.)	Fair Market Value	Assessment
	\$	\$
21,000	8,661,100	1,299,200
25,000 +	9,235,200	1,385,300

Barges (Hull)—Assess Barges (Hull) at 25 percent of the assessment for the rig value bracket, and add this to the proper rig assessment to arrive at total for barge and its drilling rig.

Living quarters are to be assessed on an individual basis.

B. Jack-Ups

Table 1103.B Jack-Ups			
Type	Water Depth Rating	Fair Market Value	Assessment
IC		***	
	200-299 FT.	50,000,000	7,500,000
	300-Up FT.	150,000,000	22,500,000

C. Semisubmersible Rigs

Table 1103.C Semisubmersible Rigs		
Water Depth Rating	Fair Market Value	Assessment
0-800 ft.		***
801-1,800 ft.		***
1,801-2,500 ft.	\$ 150,000,000	22,500,000
2,501-Up ft.	\$ 200,000,000	30,000,000

D. Well Service Rigs Land Only (Good Condition)

Table 1103.D Well Service Rigs Land Only (Good Condition)				
Class	Mast	Engine	Fair Market Value	Assessment
I	72' X 125M# 75' X 150M#	6V71	213,500	32,100
II	96' X 150M# 96' X 180M# 96' X 185M# 96' X 205M# 96' X 210M# 96' X 212M# 96' X 215M#	8V71	306,250	45,900
III	96' X 240M# 96' X 250M# 96' X 260M# 102' X 215M#	8V92	354,400	53,200
IV	102' X 224M# 102' X 250M# 103' X 225M# 103' X 250M# 104' X 250M# 105' X 225M# 105' X 250M#	12V71	402,500	60,400
V	105' X 280M# 106' X 250M# 108' X 250M# 108' X 260M# 108' X 268M# 108' X 270M# 108' X 300M#	12V71 12V92	450,600	67,600

Class	Mast	Engine	Fair Market Value	Assessment
VI	110' X 250M# 110' X 275M# 112' X 300M# 112' X 350M#	12V71 (2) 8V92	481,250	72,200
VII	117' X 215M#	(2) 8V92 (2) 12V71	551,250	82,700

* * *

1. The fair market values and assessed values indicated by these tables are based on the current market (sales) appraisal approach and not the cost approach.

2. These tables assume complete rigs in good condition. If it is documented to the assessor that any rig is incomplete or is in less than good condition, these amounts should be adjusted.

3. Significant variations from the "good" condition are possible and must be considered when the drilling rig is valued. These variations in condition are acknowledged by HADCO in the newsletter pricing. Conditions from "poor" to "excellent" are priced for all depth ratings. If adjustments are needed, the most recent HADCO newsletter shall be used to determine the proper adjusted condition.

a. Significant factors that would downgrade the condition can be identified by the following data:

i. a detailed estimate and description of substantial capital repairs needed on the rig and/or rig data sheet verifying the rig is of outdated technology (mechanical rig or the like).

b. Significant factors that would upgrade the condition can be identified by the following data:

i. a rig manufacture date on the LAT form of less than three years.

E. Consideration of Obsolescence

1. Functional obsolescence is a loss in value of personal property above and beyond physical deterioration. Upon a showing of evidence of such loss, substantiated by the taxpayer in writing, functional obsolescence may be given.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1837 and R.S. 47:2323.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Tax Commission, LR 8:102 (February 1982), amended LR 10:939 (November 1984), LR 12:36 (January 1986), LR 13:188 (March 1987), LR 16:1063 (December 1990), LR 17:1213 (December 1991), LR 22:117 (February 1996), LR 23:205 (February 1997), amended by the Department of Revenue, Tax Commission, LR 24:487 (March 1998), LR 25:315 (February 1999), LR 26:508 (March 2000), LR 27:426 (March 2001), LR 28:519 (March 2002), LR 30:488 (March 2004), LR 31:718 (March 2005), LR 32:431 (March 2006), LR 33:493 (March 2007), LR 34:

Chapter 25. General Business Assets

§2503. Tables Ascertain Economic Lives, Percent Good and Composite Multipliers of Business and Industrial Personal Property

A. - A.1. ...

Business Activity/Type of Equipment	Average Economic Life in Years
Agricultural Machinery & Equipment	* * *
Feed Mill Equipment (Production Line)	* * *
* * *	* * *
Cash Registers & Scanners (Also See Supermarkets)	* * *
Cellular/PCS	
Antennas	6
Cellular/PCS Telephone Handsets	3
Electronics	6
Leasehold Improvements	15
Power and Batteries	6
Switching	6
Towers – Cellular/PCS and Microwave	20
Transmission	6
Cement, Clay & Brick Prods. Mfg. M & E	* * *
* * *	* * *
Supermarkets	
Cash Registers & Scanners	5
* * *	* * *
* * *	* * *

B. Cost Indices

Year	Age	National Average 1926 = 100	January 1, 2007 = 100*
2007	1	1373.3	0.986
2006	2	1302.3	1.040
2005	3	1244.5	1.088
2004	4	1157.3	1.170
2003	5	1118.6	1.210
2002	6	1100.0	1.231
2001	7	1093.4	1.238
2000	8	1084.3	1.249
1999	9	1065.0	1.271
1998	10	1061.8	1.275
1997	11	1052.7	1.286
1996	12	1036.0	1.307
1995	13	1020.4	1.327
1994	14	985.0	1.374
1993	15	958.0	1.413
1992	16	939.8	1.441
1991	17	928.5	1.458
1990	18	910.2	1.487
1989	19	886.5	1.527
1988	20	841.4	1.609
1987	21	806.9	1.678
1986	22	795.4	1.702
1985	23	787.9	1.718
1984	24	776.4	1.744
1983	25	755.8	1.791
1982	26	742.4	1.824

*Reappraisal Date: January 1, 2007 – 1353.8 (Base Year)

C. Percent Good

Age	3 Yr	5 Yr	6 Yr	8 Yr	10 Yr	12 Yr	15 Yr	20 Yr	25 Yr
1	.70	.85	.87	.90	.92	.94	.95	.97	.98
2	.49	.69	.73	.79	.84	.87	.90	.93	.95
3	.34	.52	.57	.67	.76	.80	.85	.90	.93
4	.16	.34	.41	.54	.67	.73	.79	.86	.90
5		.23	.30	.43	.58	.66	.73	.82	.87

Table 2503.C Percent Good									
Age	3 Yr	5 Yr	6 Yr	8 Yr	10 Yr	12 Yr	15 Yr	20 Yr	25 Yr
6		.18	.19	.33	.49	.58	.68	.78	.84
7			.18	.26	.39	.50	.62	.74	.81
8				.22	.30	.43	.55	.70	.78
9				.20	.24	.36	.49	.65	.75
10					.21	.29	.43	.60	.71
11					.20	.24	.37	.55	.68
12						.22	.31	.50	.64
13						.20	.26	.45	.60
14							.23	.40	.56
15							.21	.35	.52
16							.20	.31	.48
17								.27	.44
18								.24	.39
19								.22	.34
20								.21	.30
21								.20	.28
22									.26
23									.24
24									.20
25									.20
26									.20

D. Composite Multipliers 2008 (2009 Orleans Parish)

Table 2503.D Composite Multipliers 2008 (2009 Orleans Parish)									
Age	3 Yr	5 Yr	6 Yr	8 Yr	10 Yr	12 Yr	15 Yr	20 Yr	25 Yr
1	.69	.84	.86	.89	.91	.93	.94	.96	.97
2	.51	.72	.76	.82	.87	.90	.94	.97	.99
3	.37	.57	.62	.73	.83	.87	.92	.98	1.01
4	.19	.40	.48	.63	.78	.85	.92	1.01	1.05
5		.28	.36	.52	.70	.80	.88	.99	1.05
6		.22	.23	.41	.60	.71	.84	.96	1.03
7			.22	.32	.48	.62	.77	.92	1.00
8				.27	.37	.54	.69	.87	.97
9				.25	.31	.46	.62	.83	.95
10					.27	.37	.55	.77	.91
11					.26	.31	.48	.71	.87
12						.29	.41	.65	.84
13						.27	.35	.60	.80
14							.32	.55	.77
15							.30	.49	.73
16							.29	.45	.69
17								.39	.64
18								.36	.58
19								.34	.52
20								.34	.48
21								.34	.47
22									.44
23									.41
24									.35
25									.36
26									.36

1. - 1.c. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1837 and R.S. 47:2323.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Tax Commission, LR 8:102 (February 1982), amended LR 9:69 (February 1983), LR 10:944 (November 1984), LR 12:36 (January 1986), LR 13:188 (March 1987), LR 13:764 (December 1987), LR 14:872 (December 1988), LR 15:1097 (December 1989), LR 16:1063 (December 1990), LR 17:1213 (December 1991), LR 19:212 (February 1993), LR 20:198

(February 1994), LR 21:186 (February 1995), LR 22:117 (February 1996), LR 23:207 (February 1997), amended by the Department of Revenue, Tax Commission, LR 24:490 (March 1998), LR 25:317 (February 1999), LR 26:509 (March 2000), LR 27:427 (March 2001), LR 28:520 (March 2002), LR 29:370 (March 2003), LR 30:489 (March 2004), LR 31:719 (March 2005), LR 32:433 (March 2006), LR 33:496 (March 2007), LR 34:

Chapter 27. Guidelines for Application and Assessment of Land Eligible to be Assessed at Use Value

§2711. Tables—Agricultural and Horticultural Lands

A. The following table is hereby established as the gross returns, production cost and net income per acre per year of agricultural and horticultural lands.

Table 2711.A Weighted Average Income per Acre 2003-2006				
Commodity	Acres	Percent	Net Income	Weighted Fractional
Beef **	2,348,316	38.267	(46.25)	-0-
Soybeans(Wheat) *	902,500	14.707	2.33	34.27
Cotton	567,500	9.248	86.15	796.72
Rice (Crawfish)*	468,250	7.630	4.25	32.43
Sugarcane	426,250	6.946	86.58	601.38
Corn	395,000	6.437	(12.39)	-0-
Idle Crop ***	522,794	8.519	----	-0-
Grain Sorghum	108,750	1.772	4.03	7.14
Conservation Reserve	243,442	3.967	46.45	184.27
Dairy **	123,153	2.007	23.64	47.45
Sweet Potatoes	17,750	0.289	1,011.01	292.18
Catfish	6,934	0.113	(551.35)	-0-
Watermelon	3,293	0.054	314.95	17.01
Southern Peas	1,758	0.029	894.02	25.93
Tomatoes	592	0.010	19,247.42	192.47
Strawberries	414	0.007	8,805.92	61.64
Totals	6,136,696	100.000	---	2,292.89

Weighted Average Net Income—\$22.93

*Wheat is typically grown as a double crop with soybeans. Farm-raised crawfish is normally a double crop with rice.

**Acreage for beef and dairy were obtained from the 2002 Census of Agriculture, Vol. 1:Part 18, Louisiana State and Parish Data, Table 50.

***Acreage for idle cropland was obtained from the 2002 Census of Agriculture, Vol. 1:Part 18, Louisiana State and Parish Data, Table 8. Includes acreage for cropland idle or used for cover crops or soil-improvement, but not harvested and not pastured or grazed.

NOTE: By state statute, negative net income for a given commodity is set equal to zero.

B. Suggested Capitalization Rate for Agricultural and Horticultural Lands

Table 2711.B Suggested Capitalization Rate for Agricultural and Horticultural Lands	
Risk Rate	2.72%
Illiquidity Rate	0.18%
Safe Rate*	4.91%
Capitalization Rate**	7.81%

*Safe Rate is four year average of 30 year U. S. Treasury securities.

**Statutory minimum capitalization rate of 12 percent used in calculations instead of actual rate as developed above.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:2301 through R.S. 47:2308.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Tax Commission, LR 8:102 (February 1982), amended LR 9:69 (February 1983), LR 12:36 (January 1986), LR 13:764 (December 1987), LR 17:1213 (December 1991), LR 22:117 (February 1996), amended by the Department of Revenue, Tax Commission, LR 26:511 (March 2000), LR 30:491 (March 2004), LR 34:

Chapter 31. Public Exposure of Assessments; Appeals §3105. Practice and Procedure for Public Service Properties Hearings

A. ...

B. All filings to the Louisiana Tax Commission shall be filed with the Office of General Counsel. They shall be deemed filed only when actually received, in proper form. All filings shall be in the form of an original and seven copies on letter size paper.

1. The Office of the General Counsel shall be sent one "service copy" of all State Court, Federal Court, Appellate Court, and/or Supreme Court pleadings in which the LTC is named party in addition to Special Counsel for the LTC.

C. ...

D. Ten days prior to said hearings, the protesting taxpayer shall file a signed, pleading, specifying each respect in which the initial determination is contested, setting forth the specific basis upon which the protest is filed, together with a statement of the relief sought and seven copies of all hearing exhibits to be presented; which shall be marked "Exhibit Taxpayer_____" and shall be consecutively numbered, indexed and bound. Legal memorandum submitted by the parties will be made part of the record of proceedings before the commission, but shall not be filed as exhibits to be offered into evidence for the hearing before the commission.

E. - R. ...

S. The parties to an appeal shall be notified in writing by certified mail of the final decision of the commission. The taxpayer shall have 30 days from receipt of the Order to appeal to a court of competent jurisdiction.

T. ...

LTC Docket No. _____
 Form 3105.A **La. Tax Commission**
 Exhibit A **P. O. Box 66788**
 Appeal to Louisiana Tax Commission **Baton Rouge, LA**
 by Taxpayer **70896**
(225) 925-7830

Name: _____ Parish/District: _____
 Taxpayer
 Address: _____ City, State, Zip: _____
 Address or Legal Description of Property Being Appealed _____

The Fair Market Value of the Public Service Section of the Louisiana Tax Commission is:
 Land \$ _____ Improvement \$ _____
 Personal Property* \$ _____ Total \$ _____

I am requesting that the Fair Market Value be fixed at:
 Land \$ _____ Improvement \$ _____
 Personal Property* \$ _____ Total \$ _____

* If you are not appealing personal property, leave this section blank.
 I understand that property is assessed at a percentage of fair market value which means the price for the property which would be agreed upon between a willing and informed buyer and a willing and informed seller

under usual and ordinary circumstances, the highest price the property would bring on the open market if exposed for sale for a reasonable time.

Appellant _____
 Address: _____

 Telephone No.: _____

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1837 and R.S. 47:1856.

HISTORICAL NOTE: Promulgated by the Louisiana Tax Commission, LR 4:339 (September 1978), amended by the Department of Revenue and Taxation, Tax Commission, LR 10:947 (November 1984), LR 15:1097 (December 1989), LR 20:198 (February 1994), LR 21:186 (February 1995), LR 23:209 (February 1997), amended by the Department of Revenue, Tax Commission, LR 24:493 (March 1998), LR 25:320 (February 1999), LR 26:513 (March 2000), LR 30:492 (March 2004), LR 31:723 (March 2005), LR 32:438 (March 2006), LR 33:499 (March 2007), LR 34:

Elizabeth L. Guglielmo
 Chairman

0801#029

DECLARATION OF EMERGENCY

**Department of Social Services
 Office of Family Support**

Food Stamp Program (LAC 67:III.1940)

The Department of Social Services, Office of Family Support, has exercised the emergency provision of the Administrative Procedure Act, in accordance with R.S. 49:953(B) to adopt revisions to LAC 67:III, Subpart 3, Food Stamp Program, Chapter 19, Certification of Eligible Households, Subsection 1940, Work Participation Requirements for Able bodied Adults without Dependents. This Rule shall be effective January 4, 2008, and remain in effect for a period of 120 days.

Revisions are needed in order to be consistent with federal regulations for the Food Stamp Program in 7 CFR 273.24. Failure to comply with federal regulations regarding the Food Stamp Program can result in federal sanctions. Changes include corrections to the exemptions to the work participation requirements for able-bodied adults without dependents and clarification of language concerning the one-time three month extension of eligibility for individuals who regain eligibility but are no longer fulfilling the work requirement provisions. The changes do not affect current recipients because prior to November 1, 2007, Louisiana had a statewide waiver from the work participation requirements for able-bodied adults without dependents.

Title 67

SOCIAL SERVICES

Part III. Office of Family Support

Subpart 3. Food Stamp Program

Chapter 19. Certification of Eligible Households

Subchapter G. Work Requirements

§1940. Work Participation Requirements for Able-Bodied Adults without Dependents

NOTE: Effective 10/1/97 by ER

A. - A.3. ...

B. An individual is exempt from this requirement if the individual is:

1. under 18 or 50 years of age or older;
2. medically certified as physically or mentally unfit for employment;
3. a parent of a household member under 18, even if the household member who is under 18 does not receive food stamps;
4. residing in a household where a household member is under age 18, even if the household member who is under 18 does not receive food stamps;
5. pregnant; or
6. otherwise exempt from work registration requirements.

C. Individuals can regain eligibility for assistance.

1. - 1.c. ...
2. An individual who regained eligibility and who is no longer fulfilling the work requirement is eligible for three consecutive countable months one time in any 36 month period, starting on the date the individual first notifies the agency that he or she is no longer fulfilling the work requirement, unless the individual has been satisfying the work requirement by participating in a work or workfare program, in which case the period starts on the date the agency notifies the individual that he or she is no longer meeting the work requirement.

D. The first countable month of this provision is November 1996.

AUTHORITY NOTE: Promulgated in accordance with P.L. 104-193, 7 CFR 273.24.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 23:81 (January 1997), amended LR 34:

Ann Silverberg Williamson
Secretary

0801#018

DECLARATION OF EMERGENCY

Department of Social Services Office of Family Support

TANF Initiatives (LAC 67:III.Chapter 55)

The Department of Social Services, Office of Family Support, has exercised the emergency provision in accordance with R.S. 49:953(B), the Administrative Procedure Act to adopt revisions to LAC 67:III: Subpart 15, Chapter 55 Temporary Assistance for Needy Families (TANF) Initiatives. This Emergency Rule is effective January 1, 2008, and will remain in effect for a period of 120 days.

Pursuant to Act 18 of the 2007 Regular Session of the Louisiana Legislature, the agency is adopting revisions to Chapter 55 TANF Initiatives. The purpose of the modifications is to align the Louisiana Administrative Code with Louisiana's TANF State Plan to assure that the agency is in compliance with both federal and state regulations. Failure to comply with federal regulations regarding TANF can result in decreased funding for all TANF programs. Changes include the addition of a definition of family for each TANF Initiative, the addition of TANF goal numbers, and the addition of language needed to clarify existing

Louisiana Register Vol. 34, No. 01 January 20, 2008 55

descriptions of TANF Initiatives. Sections 5507, 5521, 5523, 5535, 5565, and 5585 are being repealed. because they are no longer funded TANF Initiatives. The additions and exclusions do not change the services provided to participants.

The authorization for emergency action in this matter is contained in Act 18 of the 2007 Regular Session of the Louisiana Legislature.

Title 67

SOCIAL SERVICES

Part III. Family Support

Subpart 15. Temporary Assistance for Needy Families (TANF) Initiatives

Chapter 55. TANF Initiatives

§5505. Nonpublic School Early Childhood Development Program

A. ...

B. These services meet TANF Goal 3, to prevent and reduce the incidence of out-of-wedlock pregnancies and TANF Goal 4, to encourage the formation and maintenance of two-parent families by placing children in learning environments at the pre-school level to foster an interest in learning, increase literacy levels, and increase the likelihood of developing responsible behavior.

C. Eligibility for services is limited to families in which the child is one year younger than the eligible age for public school kindergarten and who have earned income at or below 200 percent of poverty level. A needy family consists of minor children residing with custodial parents, or caretaker relatives of minor children.

D. ...

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; R.S. 46:231 and R.S. 36:474; Act 12, 2001 Reg. Session, Act 18, 2007 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 28:350(Febuary 2002), amended LR 29:715 (May 2003), LR 30:501 (March 2004), LR 34:

§5507. Adult Education, Basic Skills Training, Job Skills Training, and Retention Services Program

Repealed.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; R.S. 46:231 and R.S. 36:474; Act 12, 2001 Reg. Session; Act 14, 2003 Reg. Session, Act 18, 2007 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 28:870 (April 2002), amended LR 29:44 (January 2003), LR 30:501 (March 2004), repealed LR 34:

§5509. Domestic Violence Services

A. ...

B. These services meet TANF Goal 4, to encourage the formation and maintenance of two-parent families.

C. Eligibility for services is not limited to needy families. Eligibility for services is limited to children and/or their parents or caretaker relatives who are victims of domestic violence. A family consists of a minor child residing with a custodial parent or caretaker relative of the minor child, and non-custodial parents.

D. - E. ...

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; R.S. 46:231 and R.S. 36:474; HB 1 2006 Reg. Session, Act 18, 2007 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 32:2099 (November 2006), amended LR 33:2205 (October 2007), LR 34:

§5511. Micro-Enterprise Development Program

A. ...

B. These services meet TANF Goal 2, to end the dependence of needy parents on government benefits by promoting job preparation, work, and marriage. This goal will be accomplished by providing assistance to low-income families through the development of comprehensive micro-enterprise development opportunities as a strategy for moving parents into self-sufficiency.

C. Eligibility for services is limited to needy families, that is, a family in which any member receives a Family Independence Temporary Assistance Program (FITAP) grant, Kinship Care Subsidy Program (KCSP) grant, Food Stamps, Child Care Assistance Program (CCAP) benefits, Medicaid, Louisiana Children's Health Insurance Program (LaCHIP), Supplemental Security Income (SSI), Free or Reduced School Lunch, or who has earned income at or below 200 percent of the federal poverty level. A family consists of a minor child residing with custodial parents or caretaker relatives. Only the parent or caretaker relative within the needy family is eligible to participate.

D. ...

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; R.S. 46:231 and R.S. 36:474; Act 16, 2005 Reg. Session, Act 18, 2007 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, amended LR 32:1914 (October 2006), LR 34:

§5521. Women and Children's Residential Prevention and Treatment Program

Repealed.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; R.S. 46:231 and R.S. 36:474; Act 12, 2001 Reg. Session, Act 13, 2002 Reg. Session Act 18, 2007 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 28:352 (February 2002), LR 29:373 (March 2003), repealed LR 34:

§5523. Early Childhood Development Program

Repealed.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; R.S. 46:231 and R.S. 36:474; Act 12, 2001 Reg. Session Act 18, 2007 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 28:352 (February 2002), repealed LR 34:

§5531. After-School Tutorial and Summer Enrichment Programs

A. ...

B. These services meet TANF Goal 3, to prevent and reduce the incidence of out-of-wedlock pregnancies by providing intervention and improved life prospects for students who show evidence of academic underperformance, dropping out, or engaging in negative behaviors that can lead to dependency and out-of-wedlock pregnancies, imprisonment, etc.

C. Eligibility for services is not limited to needy families. A family consists of a minor child residing with a custodial parent or caretaker relative of the minor child, and non-custodial parents.

D. ...

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; R.S. 36:474 and 46:231; Act 12, 2001 Reg. Session, and Act 13, 2002 Reg. Session, Act 18, 2007 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 28:352 (February 2002), amended LR 28:2373 (November 2002), LR 34:

§5535. Fatherhood

Repealed.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; R.S. 36:474 and 46:231; Acts 12 and 639, 2001 Reg. Session Act 18, 2007 Reg. Session..

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 28:353 (February 2002), repealed LR 34:

§5539. Truancy Assessment and Service Centers

A. Effective October 1, 2005, OFS shall enter into Memoranda of Understanding or contracts for Truancy Assessment and Service Centers designed to identify, assess, and provide counseling to children in kindergarten through sixth grade and family members to assure regular school attendance and improved academic and behavioral outcomes.

B. These services meet TANF Goal 3, to prevent and reduce the incidence of out-of-wedlock pregnancies by providing counseling to children and family members designed to assure regular school attendance and improved academic and behavioral outcomes.

C. Eligibility for services is not limited to needy families. A family consists of a minor child residing with a custodial parent or caretaker relative of the minor child, and non-custodial parents.

D. ...

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; R.S. 46:231 and R.S. 36:474; Act 16, 2005 Reg. Session, Act 18, 2007 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 32:264 (February 2006), LR 34:

§5541. Court-Appointed Special Advocates

A. OFS shall enter into Memoranda of Understanding with the Supreme Court of Louisiana to provide services to needy children identified as abused or neglected who are at risk of being placed in foster care or, are already in foster care. Community advocates provide information gathering and reporting, determination of and advocacy for the children's best interests, and case monitoring to provide for the safe and stable maintenance of the children or return to their own home.

B. The services meet TANF Goal 1, to provide assistance to needy families so that children may be cared for in their own homes or in the homes of relatives by ensuring that the time children spend in foster care is minimized.

C. Eligibility for services is limited to needy families, that is, one in which any member receives a Family Independence Temporary Assistance Program (FITAP) grant, Kinship Care Subsidy Program (KCSP) grant, Food Stamp benefits, Child Care Assistance Program (CCAP) services, Title IV-E, Medicaid, Louisiana Children's Health Insurance Program (LaCHIP) benefits, Supplemental Security Income (SSI), Free or Reduced School Lunch, or who has earned income at or below 200 percent of the federal poverty level. A family consists of minor children residing with custodial parents, or caretaker relatives of minor children.

D. ...

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; R.S. 46:231 and R.S. 36:474; Act 12, 2001 Reg. Session; Act 1, 2004 Reg. Session, Act 18, 2007 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 28:871 (April 2002), amended LR 31:485 (February 2005), LR 34:

§5543. Drug Courts Program

A. OFS shall enter into a Memorandum of Understanding with the Supreme Court of Louisiana to provide services to drug court clients that may include non-medical treatment, assessment, counseling, education, and training. Eligible services shall not include drug court administrative costs.

B. These services meet TANF Goal 3, to prevent and reduce the incidence of out-of-wedlock pregnancies and TANF Goal 4, to encourage the formation and maintenance of two-parent families by providing assessment, counseling, education, training, non-medical treatment, etc.

C. Eligibility for services is limited to children and to the parents or caretaker relatives of minor children. A family consists of a minor child residing with a custodial parent or caretaker relative of the minor child, and non-custodial parents.

D. ...

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; R.S. 46:231 and R.S. 36:474; Act 12, 2001 Reg. Session, Act 18, 2007 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 28:353 (February 2002), amended LR 34:

§5545. Remediation and Tutoring Programs

A. OFS shall enter into a Memorandum of Understanding with the Department of Education to establish programs designed to increase the likelihood of a student scoring above the "unsatisfactory" achievement level on the Graduate Exit Exam and the LEAP 21 Exam and include:

1. - 3. ...

B. These services meet TANF Goal 3, to prevent and reduce the incidence of out-of-wedlock pregnancies by encouraging youths to remain in school, reducing their risk of engaging in negative behavior and increasing opportunities for families to become self-sufficient through education and training.

C. - D. ...

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; R.S. 46:231 and R.S. 36:474; Act 12, 2001 Reg. Session, Act 18, 2007 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 28:353 (February 2002), amended LR 31:485 (February 2005), LR 34:

§5549. OCS Child Welfare Programs

A. OFS shall enter into a Memorandum of Understanding with the Office of Community Services (OCS), the state child welfare agency, for collaboration in identifying and serving children in needy families who are at risk of abuse or neglect. The methods of collaboration include:

1. *Child Protection Investigation (CPI)*—comprises services to assess the validity of a report of child abuse or neglect involving a minor child or children residing with a custodial parent, an adult caretaker relative, or a legal guardian, to determine whether an emergency exists, and

when deemed necessary, to develop a safety plan which may include coordination of services, emergency removal and placement, referral to OCS Family Services or another appropriate agency, short term counseling, parenting guidance, and/or arrangements for concrete services, such as the Preventive Assistance Fund (PAF) and Reunification Assistance Fund (RAF).

2. ...

B. These services meet TANF Goal 1, to provide assistance to needy families so that children may be cared for in their own homes or in the homes of relatives.

C. - D. ...

E. Direct services that may be provided in response to an episode of need or a specific crisis situation and are non-recurrent, such as but not limited to food, clothing, and shelter assistance, will not be provided beyond four months.

AUTHORITY NOTE: Promulgated in accordance with 42 USC 601 et seq.; R.S. 46:231 and R.S. 36:474; Act 16, 2005 Reg. Session, Act 18, 2007 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR:2374 (November 2002), amended LR 31:486 (February 2005), LR 32:2099 (November 2006), LR 34:

§5551. Community Response Initiatives

A. The Office of Family Support, may enter into Memoranda of Understanding or contracts to develop innovative and strategic programming solutions suited to the unique needs of Louisiana's communities.

B. The services provided by the various partners must meet one, or a combination of, the four TANF goals.

1. Goal 1: to provide assistance to needy families so that children may be cared for in their own homes or in the homes of relatives.

2. Goal 2: to end dependence of needy parents on government benefits by promoting job preparation, work, and marriage.

3. Goal 3: to prevent and reduce the incidence of out-of-wedlock pregnancies.

4. Goal 4: to encourage the formation and maintenance of two-parent families.

C. Eligibility for those services meeting TANF Goals 1 and 2 is limited to needy families, that is, a family in which any member receives a Family Independence Temporary Assistance Program (FITAP) grant, Kinship Care Subsidy Program (KCSP) grant, Food Stamp benefits, Child Care Assistance Program (CCAP) services, Title IV-E, Medicaid, Louisiana Children's Health Insurance Program (LaChip) benefits, Supplemental Security Income (SSI), Free or Reduced Lunch, or who has earned income at or below 200 percent of the federal poverty level. For TANF Goals 1 and 2 a family consists of minor children residing with custodial parents, or caretaker relatives of minor children.

D. Eligibility for those services meeting TANF Goals 3 and 4 may include any family in need of the provided services regardless of income. For TANF Goals 3 and 4 a family consists of a minor child residing with a custodial parent or caretaker relative of the minor child, and non-custodial parents, and legal guardians.

E. ...

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; R.S. 46:231 and R.S. 36:474; Act 13, 2002 Reg. Session, Act 18, 2007 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 28:2374 (November 2002), amended LR 34:

§5555. Individual Development Account Program

A. OFS shall establish the Individual Development Account (IDA) Program to provide asset and savings opportunities to low-income families for specific purposes as well as provide financial management education. The agency will contract to develop and administer the IDA Program for low-income families.

B. - D. ...

* * *

E. These services meet TANF Goal 1, to provide assistance to needy families so that children may be cared for in their own homes or in homes of relatives. A family consists of minor children living with custodial parents or caretaker relatives of minor children.

F. - G. ...

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; R.S. 36:474 and 46:231; Act 1098, 2001 Reg. Session; Act 84, 2002 First Extraordinary Session; Act 13, Reg. Session; HB 1, 2006 Reg. Session, Act 18, 2007 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 29:45(January 2003), amended LR: 32.2099 (November 2006), LR 34:

§5559. Early Childhood Supports and Services Program

A. The Office of Family Support, shall enter into a Memoranda of Understanding or contracts to create programs to identify and provide supports and services to young children, ages 0-5, and their families who are at risk of developing cognitive, behavioral, and relationship difficulties. Services may include but are not limited to:

A.1. - A.12. ...

B. Services offered by providers meet one or more of the following TANF goals.

1. Goal 1: to provide assistance to needy families so that children may be cared for in their own homes or in the home of a relative.

2. Goal 2: to end dependence of needy parents on government benefits by promoting job preparation, work, and marriage.

3. Goal 3: to prevent and reduce the incidence of out-of-wedlock pregnancies.

4. Goal 4: to encourage the formation and maintenance of two-parent families.

C. Eligibility for services is limited to at-risk families that include a child age 0-5 years, and who have earned income at or below 200 percent of the federal poverty level. A family consists of a minor child residing with a custodial parent or caretaker relative of the minor child, and non-custodial parents.

D. ...

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; R.S. 46:231 and R.S. 36:474; Act 13, 2002 Reg. Session, Act 18, 2007 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 29:44(January 2003), amended LR 34:

§5561. Early Childhood Education and Parenting Services Programs

A. The Office of Family Support, shall enter into Memoranda of Understanding or contracts to create quality, early childhood education and parenting services programs

at various sites, such as schools, Head Start and Early Head Start Centers, churches, Class A Day Care Centers, and Family Child Day Care Homes to provide children with age-appropriate services during the school year, school holidays, summer months and before-and-after school and to provide parents, legal guardians, or caretaker relatives of children with parenting and adult/family educational services. The development of public education materials and training for parents, providers, professionals, and interested parties to educate and promote the services offered by this program and to encourage participation in the programs as well as the Child Care Assistance Program may be included in the contracts or be entered into as specific contracts promote applications for CCAP; assist providers; encourage eligible families to apply for services offered through OFS; and educate parents and others who have an interest in children and families about criteria of quality child care and the needs of young children.

B. Services offered by providers meet TANF Goal 3, to prevent and reduce the incidence of out-of-wedlock pregnancies by providing supervised, safe environments for children thus limiting the opportunities for engaging in risky behaviors, and TANF Goal 4, to encourage the formation and maintenance of two-parent families by providing educational services to parents or other caretakers to increase their own literacy level and effectiveness as a caregiver, and to foster positive interaction with their children.

C. - D. ...

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; R.S. 46:231 and R.S. 36:474; Act 13, 2002 Reg. Session, Act 18, 2007 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 29:190 (February 2003), amended LR 31:486 (February 2005), LR 34:

§5563. Substance Abuse Treatment Program for Needy Families

A. ...

B. These services meet TANF Goal 2, to end the dependence of needy parents on government benefits by providing needy families with substance abuse treatment so that they may become self-sufficient in order to promote job preparation, work, and marriage.

C. Eligibility for services is limited to needy families, that is, a family in which any member receives a Family Independence Temporary Assistance Program (FITAP) grant, Kinship Care Subsidy Program (KCSP) grant, Food Stamp benefits, Child Care Assistance Program (CCAP) services, Medicaid, Louisiana Children's Health Insurance Program (LaChip) benefits, Supplemental Security Income (SSI), Free or Reduced Lunch, or who has earned income at or below 200 percent of the federal poverty level. A needy family includes a minor child living with a custodial parent or caretaker relative who has earned income at or below 200 percent of the federal poverty level.

D. ...

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; R.S. 46:231 and R.S. 36:474; Act 13, 2002 Reg. Session, Act 18, 2007 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 29:190 (February 2003), amended LR 31:486 (February 2005), LR 34:

§5565. Family Strengthening and Healthy Marriages

Repealed.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; R.S. 46:231 and R.S. 36:474; Act 13, 2002 Reg. Session, Act 18, 2007 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 29:191 (February 2003), repealed LR 34:

§5569. Alternatives to Abortion

A. Effective June 1, 2006, the Office of Family Support shall enter into contracts to provide intervention services including crisis intervention, counseling, mentoring, support services, and pre-natal care information, in addition to information and referrals regarding healthy childbirth, adoption, and parenting to help ensure healthy and full-term pregnancies as an alternative to abortion.

B. These services meet TANF Goal 1, to provide assistance to needy families so children may be cared for in their own homes or in the homes of relatives and TANF Goal 4, to encourage the formation and maintenance of two-parent families by providing pregnancy and parenting support to low-income women, their male partners, and families who are experiencing an unplanned pregnancy.

C. - D. ...

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; R.S. 46:231 and R.S. 36:474; Act 16, 2005 Reg. Session, Act 18, 2007 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 32:2099 (November 2006), amended LR 34:

§5571. Parenting/Fatherhood Services Program

A. The Office of Family Support shall enter into contracts to create programs that will assist low-income fathers with various skills including employment, life, parenting, and other skills in order to increase their ability to provide emotional and financial support for their children, and to create a network of community- and faith-based programs that will provide linkages to and for state entities, specifically Child Support Enforcement Services.

B. These services meet TANF Goal 2, to end the dependence of needy parents on government benefits by promoting job preparation, work, and marriage, and TANF Goal 4, to encourage the formation and maintenance of two-parent families by eliminating emotional, social, financial, and legal barriers that hinder a father's ability to be fully engaged in his children's lives.

C. Eligibility for services is limited to fathers of minor children, who have earned income at or below 200 percent of the federal poverty level.

D. ...

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; R.S. 46:231 and R.S. 36:474; Act 13, 2002 Reg. Session, Act 18, 2007 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 29:191 (February 2003), amended LR 34:

§5573. Community Supervision Program (CSP)

A. OFS shall enter into a Memorandum of Understanding (MOU) with the Department of Public Safety and Corrections-Youth Services, Office of Youth Development (DPSC-YS/OYD), to provide services to youth and their families as a result of an adjudication and disposition by a court that orders DPSC-YS/OYD to

supervise youth in their communities in an effort to prevent removal from the home.

B. - B.4. ...

C. These services meet TANF Goal 1, to provide assistance to needy families so that children may be cared for in their own homes or in the homes of relatives by providing services to youth, who are in jeopardy of removal from their homes, and their families.

D. Financial eligibility for those services attributable to TANF/Maintenance of Effort (MOE) funds is limited to eligible families, which include a minor child living with a custodial parent or an adult caretaker relative. An eligible family is one in which any member receives a Family Independence Temporary Assistance Program (FITAP) grant, Kinship Care Subsidy Program (KCSP) grant, Food Stamp benefits, Child Care Assistance Program (CCAP) services, Title XIX (Medicaid) Medical Assistance Program benefits, Louisiana Children's Health Insurance Program (LACHIP) benefits, or Supplemental Security Income (SSI).

E. Services are considered non-assistance by the agency.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; R.S. 46:231 and R.S. 36:474., amended Act 18, 2007 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 29:2511 (November 2003), amended LR 31:487 (February 2005), LR 34:

§5575. Teen Pregnancy Prevention Program

A. Effective July 1, 2003, Office of Family Support shall enter into Memoranda of Understanding or contracts to prevent or reduce out-of-wedlock and teen pregnancies by enrolling youth ages 8 through 20 in supervised, safe environments, with adults leading activities according to a research-based model aimed at reducing teen pregnancy.

B. Services offered by providers meet TANF Goal 3, to prevent and reduce the incidence of out-of-wedlock pregnancies by providing research-based prevention and intervention programming for students who live in poor communities and/or show evidence of academic underperformance, dropping out, or engaging in negative behaviors that can lead to dependency, out-of-wedlock births, or imprisonment.

C. - D. ...

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; R.S. 46:231 and R.S. 36:474; Act 14, 2003 Reg. Session, Act 18, 2007 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 30:502 (March 2004), amended LR 34:

§5581. Earned Income Tax Credit (EITC) Program

A. ...

B. These services meet TANF Goal 2, effective November 1, 2006, to end dependence of needy parents on government benefits by promoting job preparation, work, and marriage.

C. Effective November 1, 2006, eligibility for services is limited to those families with minor children who meet the Internal Revenue Service's EITC income eligibility standards. A family consists of minor children residing with custodial parents or caretaker relatives of minor children.

D. ...

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; R.S. 46:231 and R.S. 36:474; Act 1, 2004 Reg. Session, Act 16, 2005 Reg. Session, Act 18, 2007 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 31:1610 (July 2005), amended LR 33:675 (April 2007), LR 34:

§5583. Temporary Emergency Disaster Assistance Program

A. - A.2. ...

B. These services meet TANF Goal 2, to end dependence of needy parents on government benefits by promoting job preparation, work and marriage and TANF Goal 4, to encourage the formation and maintenance of two-parent families.

C. - F. ...

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; R.S. 46:231 and R.S. 36:474; Act 16, 2005 Reg. Session, P.L. 109-168 TANF Emergency Response and Recovery Act of 2005, Act 18, 2007 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR:32:1617 (September 2006), amended LR 33:2205 (October 2007), LR 34:

§5585. Third Party In-Kind Contributions as TANF MOE

Repealed.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; R.S. 46:231 and R.S. 36:474; Act 16, 2005 Reg. Session, Act 18, 2007 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 32:1914 (October 2006), repromulgated .LR 32:2100 (November 2006), repealed LR 34:

§5587. Children's Defense Fund Freedom Schools

A. ...

B. These services meet TANF Goal 3, to prevent and reduce the incidence of out-of-wedlock pregnancies by providing improved life prospects for students who show evidence of failing, dropping out or engaging in negative behaviors that can lead to out-of-wedlock births.

C. ...

D. Services are considered non-assistance by the agency.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; R.S. 46:231 and R.S. 36:474; HB 1 2006 Reg. Session, Act 18, 2007 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 32:2099 (November 2006), amended LR 34:

§5589. Homeless Initiative

A. ...

B. These services meet TANF Goal 1, to provide assistance to needy families so children may be cared for in their own homes or in the homes of relatives by providing educational and employment opportunities to increase the literacy level and effectiveness of a caregiver.

C. Eligibility for services is limited to needy families, that is, a family in which any member receives a Family Independence Temporary Assistance Program (FITAP) grant, Kinship Care Subsidy Program (KCSP) grant, Food Stamp benefits, Child Care Assistance Program (CCAP) services, Title IV-E, Medicaid, Louisiana Children's Health Insurance Program (LaChip) benefits, Supplemental Security Income (SSI), Free or Reduced Lunch, or who has earned income at or below 200 percent of the federal poverty level. A needy family consists of minor children, custodial parents, or caretaker relatives of minor children.

D. ...

AUTHORITY NOTE: Promulgated in accordance with 42 USC 601 et seq.; R.S. 46:231 and R.S. 36:474; Act 17, 2006 Reg. Session, Act 18, 2007 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 33:674 (April 2007), amended LR 33:2205 (October 2007), LR 34:

§5591. Jobs for America's Graduates Louisiana (JAGS-LA) Program

A. Effective July 1, 2007, the Office of Family Support shall enter into a Memorandum of Understanding with the Department of Education for the Jobs for America's Graduates Louisiana (JAGS-LA) Program to help keep in school those students at risk of failing in school, to capture out-of-school youth in need of a high school education, to provide an avenue for achieving academically, and to assist students in ultimately earning recognized credentials that will make it possible for them to exit school and enter post-secondary education and/or the workforce.

B. These services meet the TANF Goal 3, to prevent and reduce the incidence of out-of-wedlock pregnancies by providing intervention and improved life prospects for students who show evidence of failing, dropping out or engaging in negative behaviors that can lead to dependency, out-of-wedlock births, imprisonment, etc.

C. Eligibility for services is not limited to needy families, however, eligible participants in the JAG-LA Program shall be 15-21 years of age and must face at least two designated barriers to success that include economic, academic, personal, environmental, or work related barriers. A family consists of a minor child residing with a custodial parent or caretaker relative of the minor child, and non-custodial parents.

D. ...

AUTHORITY NOTE: Promulgated in accordance with 42 USC 601 et seq.; R.S. 46:231 and R.S. 36:474; House Bill 1, 2007 Reg. Session Act 18, 2007 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 33:2468 (November 2007), amended LR 34:

Cindy Rougeou
Executive Director

0801#004

DECLARATION OF EMERGENCY

**Department of Social Services
Office of Family Support**

TANF—General Educational Development
(GED) Testing Program (LAC 67:III.5595)

The Department of Social Services, Office of Family Support, has exercised the emergency provision of R.S. 49:953(B), the Administrative Procedure Act, to adopt LAC 67:III, Subpart 15, General Educational Development (GED) Testing Program as a new TANF Initiative. This Emergency Rule, effective February 14, 2008, will remain in effect for a period of 120 days. This declaration is necessary to extend the original Emergency Rule which was published October 20, 2007, and was effective October 1, 2007, since it is effective for a maximum of 120 days and will expire before the final Rule takes effect. (The final Rule will be published in the February 2008 issue.)

Pursuant to Act 18 of the 2007 Regular Session of the Louisiana Legislature, the agency is adopting the GED

Testing Program to support and enhance the educational and job readiness skills of identified students at risk of dropping out or engaging in negative behaviors that can lead to dependency, out-of-wedlock pregnancies, imprisonment, etc. In addition the program encourages building stable families by promoting GED attainment, leading to improved opportunities for employment. The program provides GED adult literacy services to prepare students for passage of the GED Test. Students' increased literacy levels may lead to the attainment of a Louisiana High School Equivalency Diploma upon passage of the GED, and possible entry into postsecondary education or employment opportunities including vocational skill trainings.

The authorization for emergency action in this matter is contained in Act 18 of the 2007 Regular Session of the Louisiana Legislature.

**Title 67
SOCIAL SERVICES**

Part III. Family Support

**Subpart 15. Temporary Assistance to Needy Families
(TANF) Initiatives**

Chapter 55. TANF Initiatives

§5595. GED Testing Program

A. Effective October 17, 2007, the Office of Family Support shall enter into a Memorandum of Understanding with the Department of Education for the General Educational Development (GED) Testing Program.

B. The services provided consist of GED adult literacy services which prepare students for passage of the GED Test. The GED adult literacy services will address all levels of entering students such as Adult Basic Education (ABE) which will be directed toward students with literacy skills in the range of grades 0-6; Pre-GED directed toward students with literacy skills in the range of grades 7-8; and Adult Secondary Education (ASE) directed toward students with literacy skills in the range of grades 9-12.

C. These services will be provided to 16-21 year olds. These services meet TANF goal 3, to prevent and reduce the incidence of out-of-wedlock pregnancies. TANF goal 3 will be met by supporting and enhancing the educational and job readiness skills of youth at risk of dropping out of school and those who have already dropped out of school and are at risk of engaging in negative behaviors that can lead to out-of-wedlock pregnancies. These services will also be provided to custodial and non-custodial parents who are 22 years old and older with a minor child. These services meet TANF goal 4, to encourage the formation and maintenance of a two parent families. TANF goal 4 will be met by building stable families by promoting GED attainment which will lead to improved opportunities for employment.

D. Eligibility for services is not limited to needy families.

E. Services are considered non-assistance in that they are not considered to meet an on-going need.

AUTHORITY NOTE: Promulgated in accordance with 42 USC 601 et seq.; R.S. 46:231 and R.S. 36:474; Act 18, 2007 Reg. Session

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 34:

Ann Silverberg Williamson
Secretary

0801#060

DECLARATION OF EMERGENCY

**Department of Social Services
Office of Family Support**

**TANF—Nurse Family Partnership (NFP) Program
(LAC 67:III.5593)**

The Department of Social Services, Office of Family Support, has exercised the emergency provision of R.S. 49:953(B), the Administrative Procedure Act, to adopt LAC 67:III, Subpart 15, Nurse Family Partnership (NFP) Program as a new TANF Initiative. This Emergency Rule, effective January 29, 2008, will remain in effect for a period of 120 days. This declaration is necessary to extend the original Emergency Rule which was published October 20, 2007, and was effective October 1, 2007, since it is effective for a maximum of 120 days and will expire before the final Rule takes effect. (The final Rule will be published in the February 2008 issue.)

Pursuant to Act 18 of the 2007 Regular Session of the Louisiana Legislature, the agency is adopting the Nurse Family Partnership (NFP) Program to serve low-income, first-time mothers by providing nurse home visitation services beginning early in pregnancy and continuing through the first two years of the child's life. First time mothers may enroll as early as possible during their pregnancy, through week 28 of their pregnancy. The goals of the program include but are not limited to improving the child's health and development and increasing the economic self-sufficiency for eligible participants. Examples of the activities used to achieve these goals include, but are not limited to, engaging in activities centered on child development, parenting skills, developing a plan to continue the mother's education, and assisting the mother in finding employment.

The authorization for emergency action in this matter is contained in Act 18 of the 2007 Regular Session of the Louisiana Legislature.

**Title 67
SOCIAL SERVICES**

Part III. Family Support

**Subpart 15. Temporary Assistance to Needy Families
(TANF) Initiatives**

Chapter 55. TANF Initiatives

§5593. Nurse Family Partnership (NFP) Program

A. Effective October 1, 2007, the Office of Family Support shall enter into a Memorandum of Understanding with the Louisiana Office of Public Health, Maternal and Child Health Program to serve low-income, first-time mothers by providing nurse home visitation services beginning early in pregnancy and continuing through the first two years of the child's life. First time mothers may enroll as early as possible during their pregnancy, through week 28 of their pregnancy. The goals of the program include, but are not limited to, improving child health and development and increasing the economic self-sufficiency for eligible participants. Examples of the activities used to achieve these goals include, but are not limited to, engaging in activities centered on child development, parenting skills, developing a plan to continue the mother's education, and assisting the mother in finding employment.

B. These services meet TANF goals 1 thru 4:

1. Goal 1—to provide assistance to needy families so that children may be cared for in their own homes or in the homes of relatives;

2. Goal 2—to end dependence of needy parents on government benefits by promoting job preparation, work, and marriage;

3. Goal 3—to prevent and reduce the incidence of out-of-wedlock pregnancies; and

4. Goal 4—to encourage the formation and maintenance of two-parent families.

C. Eligibility for services is limited to needy first time mothers. Eligible participants in the NFP Program shall be first-time mothers who are no more than 28 weeks pregnant at the time of enrollment and who are at or below 200 percent of poverty.

D. Services are considered non-assistance by the agency in that they are not considered to meet an on-going basic need.

AUTHORITY NOTE: Promulgated in accordance with 42 USC 601 et seq.; R.S. 46:231 and R.S. 36:474; Act 18, 2007 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 34:

Ann Silverberg Williamson
Secretary

0801#059

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

2008 Commercial King Mackerel Season

In accordance with the emergency provisions of R.S. 49:953(B), the Administrative Procedure Act, R.S. 49:967 which allows the Wildlife and Fisheries Commission to use emergency procedures to set finfish seasons and all rules and regulations pursuant thereto by Emergency Rule, and R.S. 56:6(25)(a) and 56:326.3 which provide that the Wildlife and Fisheries Commission may set seasons for saltwater finfish; the Wildlife and Fisheries Commission hereby sets the following season for the commercial harvest of king mackerel in Louisiana state waters.

The commercial season for king mackerel in Louisiana state waters will open at 12:01 a.m., July 1, 2008, and remain open until the allotted portion of the commercial king mackerel quota for the western Gulf of Mexico has been harvested or projected to be harvested.

The commission grants authority to the Secretary of the Department of Wildlife and Fisheries to close the commercial king mackerel season in Louisiana state waters when he is informed by the National Marine Fisheries Service (NMFS) that the commercial king mackerel quota for the western Gulf of Mexico has been harvested or is projected to be harvested, such closure order shall close the season until 12:01 a.m., July 1, 2009, which is the date expected to be set for the re-opening of the 2009 commercial king mackerel season in federal waters.

The commission also authorizes the secretary to open additional commercial king mackerel seasons in Louisiana state waters if he is informed that NMFS has opened such

additional seasons and to close such seasons when he is informed that the commercial king mackerel quota for the western Gulf of Mexico has been filled, or is projected to be filled.

Effective with seasonal closures under this Emergency Rule, no person shall commercially harvest, possess, purchase, exchange, barter, trade, sell, or attempt to purchase, exchange, barter, trade, or sell king mackerel, whether taken from within or without Louisiana territorial waters. Also effective with this closure, no person shall possess king mackerel in excess of a daily bag limit, which may only be in possession during the open recreational season by legally licensed recreational fishermen. Nothing shall prohibit the possession or sale of fish by a commercial dealer if legally taken prior to the closure providing that all commercial dealers possessing such fish taken legally prior to the closure shall maintain appropriate records in accordance with R.S. 56:306.5 and R.S. 56:306.6.

Earl P. King, Jr.
Chairman

0801#033

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

2008-09 Reef Fish Commercial Seasons

In accordance with the emergency provisions of R.S. 49:953(B), the Administrative Procedure Act, R.S. 49:967 which allows the Department of Wildlife and Fisheries and the Wildlife and Fisheries Commission to use emergency procedures to set finfish seasons, and R.S. 56:326.3 which provides that the Wildlife and Fisheries Commission may set seasons for saltwater finfish, the Wildlife and Fisheries Commission hereby declares:

The commercial fishing seasons for reef fish as listed in LAC 76:VII.335, Reef Fish—Harvest Regulations continue to remain open as of January 1 of each year unless otherwise provided for in LAC 76:VII.335 and LAC 76:VII.337, or as a result of actions by the secretary as authorized below. These commercial fishing seasons include closed seasons for some species and species groups as listed in LAC 76:VII.335 and in LAC 76:VII.337, including prohibition on harvest of goliath and Nassau groupers.

In addition, the Secretary of the Department of Wildlife and Fisheries is hereby authorized to close the season for the commercial harvest of any species or group of species of the fishes listed in LAC 76:VII.335, Reef Fish—Harvest Regulations, in Louisiana state waters if he is informed by the Regional Administrator of NMFS that the applicable commercial quota has been harvested in the Gulf of Mexico, and if he is requested by the Regional Administrator of NMFS that the state of Louisiana enact compatible regulations in Louisiana state waters.

The commission also hereby grants authority to the Secretary of the Department of Wildlife and Fisheries to re-open and close the commercial seasons described here in Louisiana state waters if he is informed by NMFS that the season dates for the commercial harvest of these fish species in the federal waters of the Gulf of Mexico as set out herein

have been modified, and that NMFS requests that the season be modified in Louisiana state waters. Such authority shall extend through January 31, 2009.

Effective with seasonal closures under this Emergency Rule, no person shall commercially harvest, possess, purchase, exchange, barter, trade, sell, or attempt to purchase, exchange, barter, trade, or sell the affected species of fish, whether taken from within or without Louisiana territorial waters. Also effective with this closure, no person shall possess the affected species of fish in excess of a daily bag limit, which may only be in possession during the open recreational season by legally licensed recreational fishermen. Nothing shall prohibit the possession or sale of fish by a commercial dealer if legally taken prior to the closure providing that all commercial dealers possessing such fish taken legally prior to the closure shall maintain appropriate records in accordance with R.S. 56:306.5 and R.S. 56:306.6.

Earl P. King, Jr.
Chairman

0801#039

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Large Coastal Shark Commercial Season Closure

In accordance with the emergency provisions of R.S. 49:953(B), the Administrative Procedure Act, R.S. 49:967 which allows the Department of Wildlife and Fisheries and the Wildlife and Fisheries Commission to use emergency procedures to set finfish seasons, R.S. 56:326.3 which provides that the Wildlife and Fisheries Commission may set seasons for saltwater finfish, and the authority given to the secretary of the department by the commission in its Rule, LAC 76:VII.357.M.2, which allows the secretary to declare a closed season when he is informed that the commercial large coastal shark seasonal quota for that species group and fishery has been met in the Gulf of Mexico, and that such

closure order shall close the season until the date projected for the re-opening of that fishery in the adjacent federal waters, the Secretary of the Department of Wildlife and Fisheries hereby declares:

Effective 12:01 a.m., January 1, 2008, the commercial fishery for large coastal sharks in Louisiana waters, as described in LAC 76:VII.357.B.2, (great hammerhead, scalloped hammerhead, smooth hammerhead, nurse shark, blacktip shark, bull shark, lemon shark, sandbar shark, silky shark, spinner shark and tiger shark) will remain closed until 12:01 a.m., July 1, 2008. Nothing herein shall preclude the legal harvest of large coastal sharks by legally licensed recreational fishermen during the open season for recreational harvest. Effective with this closure, no person shall commercially harvest, possess, purchase, exchange, barter, trade, sell or attempt to purchase, exchange, barter, trade or sell large coastal sharks or fins thereof, whether taken from within or without Louisiana waters. Also effective with the closure, no person shall possess large coastal sharks in excess of a daily bag limit whether taken from within or without Louisiana waters, which may only be in possession during the open recreational season. Nothing shall prohibit the possession or sale of fish legally taken prior to the closure provided that all commercial dealers possessing large coastal sharks taken legally prior to the closure shall maintain appropriate records in accordance with R.S. 56:306.5 and R.S. 56:306.6.

The secretary has been notified by the National Marine Fisheries Service that the harvest of large coastal sharks in the federal waters of the Gulf of Mexico will be closed for the first trimester of 2008 and for the second trimester until Amendment 2 of the Highly Migratory Species Fishery Management Plan is effective. The season closure is necessary to ensure that compatible regulations are in effect while options are considered for future management of large coastal sharks in federal waters.

Bryant O. Hammett, Jr.
Secretary

0801#012

Rules

RULE

Board of Elementary and Secondary Education

Bulletin 1794—State Textbook Adoption
Policy and Procedure Manual
(LAC 28:XXXIII.301)

Editor's Note: Section 301 of this Rule is being repromulgated to correct citation errors. This Rule was originally published in the April 2007 issue of the Louisiana Register on pages 636-639.

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education has amended *Bulletin 1794—State Textbook Adoption Policy and Procedure Manual* (LAC Part XXXIII). This action is required as part of U.S. Department of Education approval of IDEA, 2004 related to the purchase of K-12 Instructional Materials and by action of the State Board of Elementary and Secondary Education in exercising its administrative and oversight authority for the state textbook adoption process.

Title 28 EDUCATION

Part XXXIII. Bulletin 1794—State Textbook Adoption Policy and Procedure Manual

Chapter 3. General Provisions

§301. Definitions

* * *

*Blind Persons or other Persons with Print Disabilities*¹—children served under these regulations who may qualify to receive books and other publications produced in specialized formats in accordance with the Act entitled "An Act to Provide Books for the Adult Blind," approved March 3, 1931, 2 U.S.C. 135a (including footnote)

* * *

National Instructional Materials Access Center (NIMAC)—the center established in section 674(e) of the Act, through the American Printing House for the Blind (APH), not later than one year after the date of enactment of IDEA. NIMAC's duties are:

1. to receive and maintain a catalog of print instructional materials prepared in the NIMAS, as established by the secretary, made available to such center by the textbook publishing industry, state educational agencies (SEAs), and LEAs;

2. to provide access to print instructional materials, including textbooks, in accessible media, free of charge, to blind or other persons with print disabilities in elementary schools and secondary schools, in accordance with such terms and procedures as the NIMAC may prescribe;

3. to develop, adopt and publish procedures to protect against copyright infringement, with respect to the print instructional materials provided in Sections 612(a)(23) and 613(a) (6) of the Act.

National Instructional Materials Accessibility Standard (NIMAS)—given that term in Section 674(e)(3)(B) of the Act (NIMAS means the standard established by the secretary to be used in the preparation of electronic files suitable and used solely for efficient conversion into specialized formats).

Print Instructional Materials—to be printed textbooks and related printed core materials that are written and published primarily for use in elementary school and secondary school instruction and are required by a SEA or LEA for use by students in the classroom.

Specialized Formats—that term in section 674(e)(3)(D) of the Act (*Specialized format* means Braille, audio, or digital text which is exclusively for use by blind or other persons with disabilities; and with respect to print instructional materials, includes large print formats when such materials are distributed exclusively for use by blind or other persons with disabilities).

* * *

Timely Manner—at the same time as non-disabled peers.

¹The Library of Congress regulations (36 CFR 701.6(b)(1)) related to the Act to Provide Books for the Adult Blind (approved March 3, 1931, 2 U.S.C. 135a) provide that "blind persons or other persons with print disabilities" include: (i) Blind persons whose visual acuity, as determined by competent authority, is 20/200 or less in the better eye with correcting glasses, or whose widest diameter of visual field subtends an angular distance no greater than 20 degrees. (ii) Persons whose visual disability, with correction and regardless of optical measurement, is certified by competent authority as preventing the reading of standard printed material. (iii) Persons certified by competent authority as unable to read or unable to use standard printed material as a result of physical limitations. (iv) Persons certified by competent authority as having a reading disability resulting from organic dysfunction and of sufficient severity to prevent their reading printed material in a normal manner. Competent authority is defined in 36 CFR 701.6(b)(2) as follows: (i) In cases of blindness, visual disability, or physical limitations "competent authority" is defined to include doctors of medicine, doctors of osteopathy, ophthalmologists, optometrists, registered nurses, therapists, professional staff of hospitals, institutions, and public or welfare agencies (e.g., social workers, case workers, counselors, rehabilitation teachers, and superintendents). (ii) In the case of a reading disability from organic dysfunction, competent authority is defined as doctors of medicine who may consult with colleagues in associated disciplines.

AUTHORITY NOTE: Promulgated in accordance with Article VIII, Section 13(A) of 1984; R.S. 17:7(4); 8-8.1; 172; 351-353; 361-365; 415.1; 463.46.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:1436 (August 1999), repromulgated LR 26:992 (May 2000), amended LR 32:1030 (June 2006), LR 33:636 (April 2005), repromulgated LR 34:64 (January 2008).

Weegie Peabody
Executive Director

0801#003

RULE

Department of Education Board of Elementary and Secondary Education

Bulletin 118—Statewide Assessment Standards
and Practices
(LAC 28:CXI.303, 305, 312, 315, 701, 1351, and 1355)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education adopted revisions to *Bulletin 118—Statewide Assessment Standards and Practices*: Chapter 3, Test Security; Chapter 7, Assessment Program Overview; and Chapter 13, Graduation Exit Examination. The proposed Rule makes changes to several Sections of Chapter 3, language is removed from §305 that references supplemental materials in the test security policy, new language regarding "administrative errors" that can and do occur during the administration of statewide assessments in §312 is added, an inclusion of the new online assessment data system, Enhanced Assessment of Grade Level Expectations (EAGLE) is added to the policy along with the rules and guidelines for its correct use among educational personnel statewide, and language is updated about emergencies during testing in §315. Chapter 7, §701 chart is updated with the names of new implemented statewide assessments and Chapter 13, §1351 restructures the policy for clearer understanding of "transfer rules" for students' placement in grades as well as adds to the policy Chapter 13, §1355.A.8 for students who enroll in Louisiana schools and transfer multiple times during grades 7, 8, 9, 10, and 11. The Rule change will have no implementation cost to state or local governmental units.

Title 28 EDUCATION

Part CXI. Bulletin 118—Statewide Assessment Standards and Practices

Chapter 3. Test Security

§303. Definitions

Access—access to secure test materials means physically handling the materials, not reading, reviewing, or analyzing test items, either before or after testing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:81.6 et seq., R.S. 416 et seq., and R.S. 441 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 31:1528 (July 2005), amended LR 34:65 (January 2008).

§305. Test Security Policy

A. - A.3.c. ...

d. at any time, copy, reproduce, record, store electronically, discuss or use in a manner inconsistent with test regulations all or part of any secure test booklet, answer document, or supplementary secure materials;

e. - g. ...

h. fail to follow security regulations for distribution and return of secure test booklets, answer documents, supplementary secure materials as well as overages as directed; or fail to account for and secure test materials before, during, or after testing;

3.i. - 4. ...

a. for the security of the test materials during testing, including test booklets, answer documents, supplementary secure materials, videotapes, and completed observation sheets;

b. - f. ...

g. procedures for the investigation of any missing test booklets, answer documents, or supplementary secure material;

4.h. - 7. ...

8. Test materials, including all test booklets, answer documents, and supplementary secure materials containing secure test questions, shall be kept secure and accounted for in accordance with the procedures specified in the test administration manuals and other communications provided by the LDE. Secure test materials include test booklets, answer documents, and any supplementary secure materials.

9. Procedures described in the test manuals shall include, but are not limited to, the following.

a. All test booklets, answer documents, and supplementary secure materials must be kept in a designated locked secure storage area prior to and after administration of any test.

i. ...

b. All test booklets, answer documents, and supplementary secure materials must be accounted for and written documentation kept by test administrators and proctors for each point at which test materials are distributed and returned.

c. Any discrepancies noted in the serial numbers of test booklets, answer documents, and any supplementary secure materials or the quantity received from contractors must be reported to the LDE, Division of Standards, Assessments, and Accountability, by the designated institutional or school district personnel prior to the administration of the test.

d. In the event that test booklets, answer documents, or supplementary secure materials are determined to be missing while in the possession of the institution or school district or in the event of any other testing irregularities or breaches of security, the designated institutional or school district personnel must immediately notify by telephone the LDE, Division of Standards, Assessments, and Accountability, and follow the detailed procedures for investigating and reporting specified in this policy.

9.e. - 10.f. ...

11. In cases in which test results are not accepted because of a breach of test security or action by the LDE, any programmatic, evaluative, or graduation criteria dependent upon the data shall be deemed not to have been met.

12. Individuals shall adhere to all procedures specified in all manuals that govern mandated testing programs.

13. - 14.a. ...

i. LEAPdata Query System. Principals should contact their DTC or Backup DTC for assistance in training teachers. After teaching, all school users (e.g., teachers, counselors, test coordinators) must read and sign the security agreement and return it to the principal. A new security agreement should be signed by all users each year after the new password letters for schools and districts are automatically generated in August. If a breach in security occurs, principals should immediately contact the DTC or

the backup DTC for a replacement password. Principals should always contact their DTC or backup DTC for assistance and training.

b. ...

i. LEAPweb Reporting System. At the school level, only principals (not teachers) and their designated school personnel (test coordinators, counselors, or office staff with whom the principal shares his/her PIN) should have access to the system and must sign a security agreement. A new security agreement should be signed by all users each year after the new password letters for schools and districts are automatically generated in August. If a breach in security occurs, principals should immediately contact the DTC or the backup DTC for a replacement password. Principals should always contact their DTC or Backup DTC for assistance and training.

ii. Security agreements must also be signed by DTCs for the LEAPweb Reporting and LEAPdata Query Systems and returned to the LDE.

c. The Louisiana Department of Education's Enhanced Assessment of Grade Level Expectations (EAGLE) System contains students' private information, including test scores and state identification numbers. This system is password protected and requires a user ID and an assigned password for access. Any student information from the system must not be disclosed to anyone other than a state, district, or school official, or parent/guardian as defined by The Family Educational Rights and Privacy Act of 1974 (FERPA). For more information on FERPA, see the U.S. Department of Education Web page at <http://www.ed.gov/offices/OM/fpco/ferpa/>. A state, district, or school official is a person employed by the state, district, or school as an administrator, supervisor, district test coordinator, school test coordinator, principal, teacher, or support staff member. This user has a legitimate educational purpose to review an educational record in order to fulfill his or her professional responsibility. Curiosity does not qualify as a right to know. All users who are granted a password to this system must abide by FERPA law. Disclosure of passwords to anyone other than those authorized is prohibited.

i. EAGLE System. Principals should contact their district designee, DTC, Backup DTC, or district curriculum supervisor for assistance in training teachers. After teaching, all users (e.g., teachers, counselors, test coordinators) must read and sign the security agreement and return it to the principal. A new security agreement should be signed by all users each year after the new password letters for schools and districts are automatically generated in August. Keep copies signed by all school users on file at the school. If a breach in security occurs, principals should immediately contact the district designee, district test coordinator, or backup district designee for a replacement password. Principals should always contact their district designee, DTC, backup DTC, or district curriculum supervisor for assistance and training.

d. All users who have access to these systems and leave their positions at a district or school site must not use or share the password.

15. - 17. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:391.7 (C) (G).

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 31:1528 (July 2005), amended LR 32:233 (February 2006), LR 33:255 (February 2007), LR 33:424 (March 2007), LR 34:65 (January 2008).

§312. Administrative Error

A. Administrative errors that result in questions regarding the security of the test or the accuracy of the test data are considered testing irregularities. If it is deemed necessary to void the test, the district test coordinator must fax a completed void form to the LDE, Division of Standards, Assessments, and Accountability, as directed in the *District and School Test Coordinators Manual*. The original Void Verification form, along with a copy of the account of the incident, must also be mailed to the LDE, Division of Standards, Assessments, and Accountability, as directed in the manual.

B. If tests are voided by the district due to administrative error, the LEA superintendent, on behalf of individual students, may initiate a request to the state superintendent of education for an opportunity to retest prior to the next scheduled test administration on behalf of individual students.

C. If administrative errors result in a question of the accuracy of the test data but do not require the voiding of the tests, the LEA superintendent or the parent, or legal guardian of an affected student may initiate a request for an opportunity to retest prior to the next scheduled test administration. The LEA superintendent or parent must provide the state superintendent of education with school- and student-level documentation describing the administrative error.

D. If the LDE determines that an administrative error did occur that allows for a retest, it will notify the LEA of the determination and arrangements for the retest. The LEA must provide a corrective plan of action.

E. To offset costs involved in retesting, the vendor will assess the LEA a fee for each test.

F. The LDE will provide a report to the SBESE of retests due to administrative errors.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 32:390 (March 2006), amended LR 33:257 (February 2007), LR 34:66 (January 2008).

§315. Emergencies during Testing

A. - A.4. ...

5. If the test booklets have been opened and test security has been compromised, testing should not be continued. The answer documents should be sent to the testing company with the responses that were completed prior to the emergency.

6. - 7. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 31:1532 (July 2005), amended LR 32:234 (February 2006), LR 33:258 (February 2007), LR 34:66 (January 2008).

Chapter 7. Assessment Program Overview
§701. Overview of Assessment Programs in Louisiana

A. ...

Name of Assessment Program	Assessment Population	Administered
Kindergarten Screening		
Kindergarten Developmental Readiness Screening Program (KDRSP)	Kindergarten	Fall 1987–
Norm-Referenced Tests (NRTs)		
California Achievement Test (CAT/F)	Grades 4, 6, and 9	Spring 1988– Spring 1992 (no longer administered)
California Achievement Test (CAT/5)	Grades 4 and 6 Grade 8	Spring 1993– Spring 1997 Spring 1997 only (no longer administered)
Iowa Tests of Basic Skills (ITBS) (form L) and Iowa Tests of Educational Development (ITED) (form M)	Grades 4, 6, 8, 9, 10, and 11	Spring 1998 (no longer administered)
ITBS ITED (form M)	Grades 3, 5, 6, and 7 Grade 9	Spring 1999– Spring 2002 (no longer administered)
ITBS ITED (form B)	Grades 3, 5, 6, and 7 Grade 9	Spring 2003– Spring 2005 (no longer administered)
Criterion-Referenced Tests (CRTs)		
National Assessment of Educational Progress (NAEP)	Grades 4, 8, and 12	Spring 1990–
Louisiana Educational Assessment Program (LEAP)	Grades 3, 5, and 7	Spring 1989– Spring 1998 (no longer administered)
Graduation Exit Examination ("old" GEE)	Grades 10 and 11	Spring 1989– Spring 2003 (state administered) Fall 2003– (district administered)
Louisiana Educational Assessment Program (LEAP) (ELA and Mathematics)	Grades 4 and 8	Spring 1999–
LEAP (Science and Social Studies)	Grades 4 and 8	Spring 2000–
Graduation Exit Examination (GEE) (ELA and Mathematics)	Grade 10	Spring 2001–
GEE (Science and Social Studies)	Grade 11	Spring 2002–
End-Of-Course Tests (EOCT)	Algebra I	Fall 2007
EOCT	Algebra I	Spring 2008
Integrated NRT/CRT		
Integrated Louisiana Educational Assessment Program (iLEAP)	Grades 3, 5, 6, 7, and 9	Spring 2006–

Name of Assessment Program	Assessment Population	Administered
Special Population Assessments		
Louisiana Alternate Assessment, Level 1 (LAA 1)	Students with Individualized Education Programs (IEPs) who meet participation criteria in grades 3–11.	Spring 2000–
LAA 1 Louisiana Alternate Assessment, Level 2 (LAA 2) ELA and Mathematics (Grades 4, 8, and 10) Science and Social Studies (Grade 11)	Grades 4, 8, 10, and 11	Revised Spring 2008 Spring 2006–
LAA 2 ELA and Mathematics	Grades 5, 6, 7, and 9	Spring 2007–
LAA 2 Science and Social Studies	Grades 4 and 8	Spring 2008
Louisiana Alternate Assessment-B (LAA-B) ["out-of-level" test]	Students with Individualized Education Programs (IEPs) who met eligibility criteria in grades 3–11.	Spring 1999– Spring 2003 (no longer administered)
English Language Development Assessment (ELDA)	Limited English Proficient (LEP) students in grades K–12	Spring 2005–

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24:4.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1534 (July 2005), amended LR 32:235 (February 2006), LR 34:66 (January 2008).

Chapter 13. Graduation Exit Examination
Subchapter D. GEE Assessment Structure

§1351. GEE Administration Rules

A. - I. ...

J. If a district holds "graduation" prior to the release of spring test scores, the LEA must have in place a policy for graduation without the test scores.

K. There is no ending age limit for students to retake in GEE, nor is there a limit on the number of times the student may retake the test. Students who no longer reside in the school district where he/she completed Carnegie units may test in the current school district of residence. The DTC shall forward the passing test scores to the high school where the Carnegie units reside.

L. If a student was issued a GED diploma and subsequently meets the requirements of the GEE, the student may surrender the GED diploma and be issued a standard high school diploma.

M. If students are transferring to a public high school from a nonpublic high school that administers the GEE, the rules for nonpublic transfer students apply.

N. When administrative errors are made in testing, the state superintendent of education may determine how to remedy the error.

O. Seniors who have completed all GEE tests required for a standard high school diploma and who wish to retest for the Louisiana high school diploma endorsements may retest during the fall retest administration. If the student is unable to test during the fall retest administration, the student may retest in the February seniors only retest.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1554 (July 2005), amended LR 32:237 (February 2006), LR 32:391 (March 2006), LR 34:67 (January 2008).

§1355. GEE Transfer Students

A. - A.1.d. ...

2. A student who was in initial membership in Louisiana public schools as a student in grades K through 6 shall adhere to the following policy.

a. A student who returns in the seventh and/or eighth grade for a period in membership of 160 days total shall take and pass both the English Language Arts and Mathematics tests and either the Science or the Social Studies test of the GEE.

b. A student who returns in the ninth grade shall take and pass both the English Language Arts and Mathematics tests and either the Science or the Social Studies test of the GEE.

c. A student who returns and is classified as a tenth grade student shall take and pass both the English Language Arts and Mathematics tests and either the Science or the Social Studies test of the GEE.

d. A student who returns and is classified as an eleventh grade student shall take and pass either the Science or the Social Studies test of the GEE.

e. A student who returns and is classified as a twelfth grade student shall not be required to take any part of the GEE.

3. A student who was in initial membership in Louisiana public schools in the seventh and/or eighth grade for a period of 160 days total, transferred out, and subsequently returned at any grade level shall take and pass both the English Language Arts and Mathematics tests and either the Science or the Social Studies test of the GEE.

4. A student who was in initial membership in Louisiana public schools as a ninth grade student, transferred out, and subsequently returned at any grade level shall be required to take and pass both the English Language Arts and Mathematics tests and either the Science or the Social Studies test of the GEE.

5. A student who was in initial membership in Louisiana public schools as a tenth grade student, transferred out, and subsequently returned at any grade level shall take and pass both the English Language Arts and Mathematics tests and either the Science or the Social Studies test of the GEE.

6. A student who was in initial membership in Louisiana public schools as an eleventh grade student, transferred out, and subsequently returned at the eleventh- or twelfth-grade level shall take and pass either the Science or the Social Studies test of the GEE.

7. A student who was in initial membership in Louisiana public schools as a twelfth grade student, transferred out, and subsequently returned as a twelfth grader shall not be required to take any part of the GEE.

8. All membership in grades 7 through 11 must be considered when determining which test to administer to a student.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 31:1555 (July 2005), amended LR 32:238 (February 2006), LR 34:68 (January 2008).

Weegie Peabody
Executive Director

0801#002

RULE

Department of Environmental Quality Office of the Secretary Legal Affairs Division

Evidentiary Hearings on
Hazardous Waste Permit Applications
(LAC 33:V.709)(HW101)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary has amended the Hazardous Waste regulations, LAC 33:V.709 (Log #HW101).

This Rule revises the circumstances for which an evidentiary hearing is held for operating permit applications for commercial hazardous waste treatment, storage, disposal, or recycling facilities under LAC 33:V.709. Evidentiary hearings were conducted for all commercial hazardous waste facilities. The department now mandates evidentiary hearings only for initial permit applications for proposed, nonexistent facilities (consistent with LAC 33:V.Chapter 4, Requirements for Commercial Treatment, Storage, and Disposal Facility Permits) and to have the discretionary authority to hold evidentiary hearings for permit renewal applications at existing facilities when deemed beneficial to do so by the department. R.S. 30:2181 originally required an evidentiary hearing for operating permit applications for commercial hazardous waste treatment, storage, disposal, or recycling facilities. That statute was repealed by Act No. 947 of the 1995 Legislature, effective January 1, 1996. This act created R.S. 30:2016, which gives the department discretionary authority to hold either a fact-finding (evidentiary) hearing or a public comment hearing for any kind of permit application, policy decision, or rule development. During the last 10 years there have been approximately 6 evidentiary hearings. There were no interveners for any of these hearings and no additional substantial information was gathered that had not already been provided during the application process and public comment period. Evidentiary hearings will continue to be public noticed and held for initial permit applications in order to encourage involvement from all entities with a substantial interest in the hearing. In addition, a public comment period will be held on the draft permitting decision pursuant to LAC 33:V.713.A, and a public hearing may be held on the draft permitting decision pursuant to LAC 33:V.707.A. Evidentiary hearings for other permit

applications may be held when deemed beneficial by the department. The basis and rationale for this Rule are to align the hazardous waste regulations with the intent of Act No. 947 of the 1995 Legislature.

This Rule meets an exception listed in R.S. 30:2019(D)(2) and R.S. 49:953(G)(3); therefore, no report regarding environmental/health benefits and social/economic costs is required.

Title 33

ENVIRONMENTAL QUALITY

Part V. Hazardous Waste and Hazardous Materials

Subpart 1. Department of Environmental Quality— Hazardous Waste

Chapter 7. Administrative Procedures for Treatment, Storage, and Disposal Facility Permits

Subchapter B. Hearings

§709. Evidentiary Hearings on Operating Permit Applications for Commercial Hazardous Waste Treatment, Storage, Disposal, or Recycling Facilities

A. ...

B. Applicability

1. An evidentiary hearing shall be held after the technical review of an initial permit application for the operation of a proposed, nonexistent commercial hazardous waste treatment, storage, disposal, or recycling facility.

2. An evidentiary hearing may be held after the technical review of a permit application, other than an initial application for a proposed, nonexistent facility, for the operation of a commercial hazardous waste treatment, storage, disposal, or recycling facility upon a determination by the administrative authority that the hearing would be beneficial in making a permit decision. Considerations by the administrative authority in making this determination include, but are not limited to, fact-finding or clarification of issues.

3. Permit applications for which evidentiary hearings may be held pursuant to Paragraph B.2 of this Section include, but are not limited to:

a. initial permit applications for interim status facilities;

b. renewal permit applications for existing facilities; and

c. major modification (Class 2 or 3) applications for existing facilities (including requests for conversion of noncommercial status to commercial status).

C. - K. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 16:683 (August 1990), LR 17:362 (April 1991), LR 21:565 (June 1995), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2469 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 34:69 (January 2008).

Herman Robinson, CPM
Executive Counsel

0801#016

RULE

Department of Environmental Quality Office of the Secretary

Regulation Revisions

(LAC 33:I.3931; III.111, 2121, 2125, 2145, 2147, and 2201; V.109, 1113, 1127, 1315, 1319, 1517, 4397, and 4999;

IX.2707, 4905, and 6125; and XI.707)(MM005)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary has amended the Environmental Quality regulations, LAC 33:I.3931; III.111, 2121, 2125, 2145, 2147, and 2201; V.109, 1113, 1127, 1315, 1319, 1517, 4397, and 4999; IX.2707, 4905, and 6125; and XI.707 (Log #MM005).

This Rule corrects outline numbering and wording errors that have been discovered in the Title 33, Environmental Quality regulations. Language found to be redundant or not required by federal regulations is deleted, and contact information for referenced publications is corrected. The Environmental Quality Act requires the department to promulgate environmental regulations. Maintenance of these regulations is part of that responsibility. The basis and rationale for this Rule are to maintain the regulations that protect the environment and public health of the state, as authorized by the Environmental Quality Act.

This Rule meets an exception listed in R.S. 30:2019(D)(2) and R.S. 49:953(G)(3); therefore, no report regarding environmental/health benefits and social/economic costs is required.

Title 33

ENVIRONMENTAL QUALITY

Part I. Office of the Secretary

Subpart 2. Notification

Chapter 39. Notification Regulations and Procedures for Unauthorized Discharges

Subchapter E. Reportable Quantities for Notification of Unauthorized Discharges

§3931. Reportable Quantity List for Pollutants

A. - B. Footnote #. ...

C. Copies of documents incorporated by reference may be obtained from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20401, or by telephone at (866) 512-1800.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2025(J), 2060(H), 2076(D), 2183(I), 2194(C), 2204(A), and 2373(B).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 11:770 (August 1985), amended LR 19:1022 (August 1993), LR 20:183 (February 1994), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 21:944 (September 1995), LR 22:341 (May 1996), amended by the Office of the Secretary, LR 24:1288 (July 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 27:2229 (December 2001), LR 28:994 (May 2002), LR 29:698 (May 2003), LR 30:751 (April 2004), LR 30:1669 (August 2004), amended by the Office of Environmental Assessment, LR 31:919 (April 2005),

amended by the Office of the Secretary, Legal Affairs Division, LR 32:603 (April 2006), LR 32:2248 (December 2006), LR 33:640 (April 2007), LR 33:2628 (December 2007), LR 34:69 (January 2008).

Part III. Air

Chapter 1. General Provisions

§111. Definitions

A. When used in these rules and regulations, the following words and phrases shall have the meanings ascribed to them below.

* * *

Automobile and Light-Duty Truck Assembly Plant—a facility, excluding customizers, body shops, and other repainters, where automobile and/or light-duty truck bodies, frames, and parts are assembled for eventual inclusion into a finished product ready for sale to vehicle dealers, but excluding the following operations:

- a. wheel coatings;
- b. anti-rust coatings;
- c. trunk coatings;
- d. interior coatings;
- e. flexible coatings;
- f. sealers; and
- g. plastic parts coatings.

Bubble Concept—an alternative emission plan whereby a facility with multiple sources of a given pollutant may achieve a required total emission by a different mix of controls from that mandated by regulation. Some sources may be assigned more restrictive limits, while others would meet less restrictive ones, provided the resulting total emissions are equivalent. Such a concept may permit a more expeditious compliance plan.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended LR 14:348 (June 1988), LR 15:1061 (December 1989), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 17:777 (August 1991), LR 21:1081 (October 1995), LR 22:1212 (December 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2444 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 32:808 (May 2006), LR 32:1599 (September 2006), LR 33:2082 (October 2007), LR 34:70 (January 2008).

Chapter 21. Control of Emission of Organic Compounds

Subchapter A. General

§2121. Fugitive Emission Control

A. Applicability. This regulation is applicable to equipment in petroleum refineries, natural gas processing plants, the synthetic organic chemical manufacturing industry (SOCMI), the methyl tertiary butyl ether (MTBE) manufacturing industry, and the polymer manufacturing industry that contains any of the following components that are intended to operate in VOC service 300 hours or more during the calendar year:

1. pumps;
2. compressors;
3. pressure relief devices;
4. open-ended valves or lines;
5. process drains;
6. valves;

7. agitators;
8. instrumentation systems; and
9. connectors.

B. - G.Liquid Service. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 16:959 (November 1990), LR 17:654 (July 1991), LR 21:1330 (December 1995), LR 22:1128 (November 1996), LR 22:1212 (December 1996), LR 24:22 (January 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:1433 (July 2000), LR 26:2452 (November 2000), LR 30:1659 (August 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2440 (October 2005), LR 33:2086 (October 2007), LR 34:70 (January 2008).

Subchapter C. Solvent Degreasers

§2125. Solvent Degreasers

A. - G. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 16:959 (November 1990), LR 18:1122 (October 1992), LR 22:1212 (December 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 28:1765 (August 2002), LR 30:746 (April 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 34:70 (January 2008).

Subchapter I. Pharmaceutical Manufacturing Facilities

§2145. Pharmaceutical Manufacturing Facilities

A. - A.2. ...

B. Air Dryers and Production Equipment Exhaust Systems. The owner or operator of a synthesized pharmaceutical manufacturing facility subject to this regulation shall reduce the VOC emissions from all air dryers and production equipment exhaust systems:

1. by at least 90 percent if emissions are 330 lb/day (150 kg/day) or more of VOC; or
2. to 33 lb/day (15.0 kg/day) or less if emissions are less than 330 lb/day (150 kg/day) of VOC.

C. Storage and Loading Controls. The owner or operator of a synthesized pharmaceutical manufacturing facility subject to this regulation shall:

1. provide a vapor balance system or equivalent control that is at least 90 percent effective in reducing emissions from truck or railcar deliveries to storage tanks with capacities greater than 2,000 gallons that store VOC with vapor pressures greater than 4.1 psia (28.0 KPA) at 20°C; and
2. install pressure/vacuum conservation vents set at plus or minus 0.03 psi gauge (plus or minus 0.2 KPA) on all storage tanks that store VOC with vapor pressures greater than 1.5 psia (10.3 KPA) at 20°C, unless a more effective control system is used.

D. Centrifuges, Filters, and In-process Tank Requirements. The owner or operator of a synthesized pharmaceutical facility subject to this regulation shall:

1. enclose all centrifuges, rotary vacuum filters, and other filters which have exposed liquid surfaces, where the liquid contains volatile organic compounds and exerts a total

volatile organic compound vapor pressure of 0.5 psia (3.50 KPA) or more at 20°C;

2. install covers on all in-process tanks containing a volatile organic compound at any time. These covers must remain closed, unless production, sampling, maintenance, or inspection procedures require operator access.

E. - G.4. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 16:964 (November 1990), LR 22:1212 (December 1996), LR 24:25 (January 1998), amended by the Office of the Secretary, Legal Affairs Division, LR 34:70 (January 2008).

Subchapter J. Limiting Volatile Organic Compound (VOC) Emissions from Reactor Processes and Distillation Operations in the Synthetic Organic Chemical Manufacturing Industry (SOCMI)

§2147. Limiting VOC Emissions from SOCMI Reactor Processes and Distillation Operations

A. - C.1.a. ...

b. combust emissions in a flare. Flares used to comply with this Section shall comply with the requirements of 40 CFR 60.18. The flare operation requirement does not apply if a process vents an emergency relief discharge into a common flare header and causes the flare servicing the process to be out of compliance with one or more of the provisions of the flare operation rule.

C.2. - F.4. Figure 1. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 21:380 (April 1995), amended LR 22:1212 (December 1996), LR 23:1508, 1510 (November 1997), LR 23:1679 (December 1997), LR 24:1286 (July 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 30:746 (April 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 34:71 (January 2008).

Chapter 22. Control of Emissions of Nitrogen Oxides (NO_x)

§2201. Affected Facilities in the Baton Rouge Nonattainment Area and the Region of Influence

A. - C.6. ...

7. flares, incinerators, and kilns and ovens, as defined in Subsection B of this Section;

C.8. - J.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 28:290 (February 2002), repromulgated LR 28:451 (March 2002), amended LR 28:1578 (July 2002), LR 30:748 (April 2004), LR 30:1170 (June 2004), amended by the Office of the Secretary, Legal Affairs Division, LR

31:2441 (October 2005), LR 33:2088 (October 2007), LR 34:71 (January 2008).

**Part V. Hazardous Waste and Hazardous Materials
Subpart 1. Department of Environmental Quality—
Hazardous Waste**

Chapter 1. General Provisions and Definitions

§109. Definitions

For all purposes of these rules and regulations, the terms defined in this Chapter shall have the following meanings, unless the context of use clearly indicates otherwise.

Recovery Operations—activities leading to resource recovery, recycling, reclamation, direct reuse or alternative uses as listed in Table 2.B of the Annex of OECD Council Decision C(88)90(Final) of 27 May 1988, (available from the Environmental Protection Agency, RCRA Docket, EPA/DC, EPA West, Room B102, 1301 Constitution Ave., NW, Washington, DC 20460 (Docket Number F-94-IEHF-FFFFF), or at the National Archives and Records Administration (NARA) by telephone at (202) 741-6030, or at the Organisation for Economic Co-operation and Development, Environment Directorate, 2 rue Andre Pascal, 75775 Paris Cedex 16, France), which include the following operations.

Code	Recovery Operations

	[See Prior Text in Table]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 10:496 (July 1984), LR 11:1139 (December 1985), LR 12:319 (May 1986), LR 13:84 (February 1987), LR 13:433 (August 1987), LR 13:651 (November 1987), LR 14:790, 791 (November 1988), LR 15:378 (May 1989), LR 15:737 (September 1989), LR 16:218, 220 (March 1990), LR 16:399 (May 1990), LR 16:614 (July 1990), LR 16:683 (August 1990), LR 17:362 (April 1991), LR 17:478 (May 1991), LR 18:723 (July 1992), LR 18:1375 (December 1992), repromulgated by the Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 19:626 (May 1993), amended LR 20:1000 (September 1994), LR 20:1109 (October 1994), LR 21:266 (March 1995), LR 21:944 (September 1995), LR 22:814 (September 1996), LR 23:564 (May 1997), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:655 (April 1998), LR 24:1101 (June 1998), LR 24:1688 (September 1998), LR 25:433 (March 1999), repromulgated LR 25:853 (May 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:269 (February 2000), LR 26:2465 (November 2000), LR 27:291 (March 2001), LR 27:708 (May 2001), LR 28:999 (May 2002), LR 28:1191 (June 2002), LR 29:318 (March 2003); amended by the Office of the Secretary, Legal Affairs Division, LR 31:2452 (October 2005), LR 31:3116 (December 2005), LR 32:606 (April 2006), LR 32:822 (May 2006), LR 33:1625 (August 2007), LR 33:2098 (October 2007), LR 34:71 (January 2008).

Chapter 11. Generators

Subchapter A. General

§1113. Exports of Hazardous Waste

A. - G.1.f.certification. ...

2. Reports shall be sent to the administrative authority of the Louisiana Department of Environmental Quality.

NOTE: This does not relieve the regulated community from the requirement of submitting annual reports in accordance with 40 CFR 262.56 to the Office of Enforcement and Compliance Assurance, Office of Federal Activities, International Compliance Assurance Division (2254A), Environmental Protection Agency, 1200 Pennsylvania Ave., NW, Washington, DC 20460. Hand-delivered reports should be sent to the Office of Enforcement and Compliance Assurance, Office of Federal Activities, International Compliance Assurance Division, Environmental Protection Agency, Ariel Rios Bldg., Room 6144, 12th St. and Pennsylvania Ave., NW, Washington, DC 20004.

H. - I.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 16:220 (March 1990), LR 18:1256 (November 1992), LR 20:1000 (September 1994), LR 20:1109 (October 1994), LR 21:944 (September 1995), LR 22:20 (January 1996), amended by the Office of the Secretary, LR 22:344 (May 1996), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:661 (April 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2471 (November 2000), LR 27:710 (May 2001), amended by the Office of the Secretary, Legal Affairs Division, LR 32:824 (May 2006), LR 33:2102 (October 2007), LR 34:72 (January 2008).

Subchapter B. Transfrontier Shipments of Hazardous Waste

§1127. Transfrontier Shipments of Hazardous Waste for Recovery within the OECD

A. - C.2. ...

a. Transactions Requiring Specific Consent

i. Notification. At least 45 days prior to commencement of the transfrontier movement, the notifier must provide written notification in English of the proposed transfrontier movement to the Office of Enforcement and Compliance Assurance, Office of Federal Activities, International Compliance Assurance Division (2254A), Environmental Protection Agency, 1200 Pennsylvania Ave., NW, Washington, DC 20460, with the words "Attention: OECD Export Notification" prominently displayed on the envelope. This notification must include all of the information identified in Paragraph C.5 of this Section. In cases where wastes having similar physical and chemical characteristics, the same United Nations classification, and the same RCRA waste codes are to be sent periodically to the same recovery facility by the same notifier, the notifier may submit one notification of intent to export these wastes in multiple shipments during a period of up to one year.

ii. - iii. ...

b. Shipments to Facilities Preapproved by the Competent Authorities of the Importing Countries to Accept Specific Wastes for Recovery

i. The notifier must provide EPA the information identified in Paragraph C.5 of this Section, in English, at least 10 days in advance of commencing shipment to a preapproved facility. The notification should indicate that the recovery facility is preapproved, and the notification may apply to a single specific shipment or to multiple shipments as described in Clause C.2.a.i of this Section. This information must be sent to the Office of Enforcement and Compliance Assurance, Office of Federal Activities, International Compliance Assurance Division (2254A), Environmental Protection Agency, 1200 Pennsylvania Ave., NW, Washington, DC 20460, with the words "OECD Export Notification-Preapproved Facility" prominently displayed on the envelope.

C.2.b.ii. - D.4. ...

5. Within three working days of the receipt of imports subject to this Subchapter, the owner or operator of the United States recovery facility must send signed copies of the tracking document to the notifier, to the Office of Enforcement and Compliance Assurance, Office of Federal Activities, International Compliance Assurance Division (2254A), Environmental Protection Agency, 1200 Pennsylvania Ave., NW, Washington, DC 20460, and to the competent authorities of the exporting and transit countries.

E. - F.2. ...

G. Reporting and Recordkeeping

1. Annual Reports. For all waste movements subject to this Subchapter, persons (e.g., notifiers, recognized traders) who meet the definition of *primary exporter* in LAC 33:V.109 shall file an annual report with the Office of Enforcement and Compliance Assurance, Office of Federal Activities, International Compliance Assurance Division (2254A), Environmental Protection Agency, 1200 Pennsylvania Ave., NW, Washington, DC 20460, no later than March 1 of each year, summarizing the types, quantities, frequency, and ultimate destination of all such hazardous waste exported during the previous calendar year. (If the primary exporter is required to file an annual report for waste exports that are not covered under this Subchapter, he may include all export information in one report provided the information required by this Subsection on exports of waste destined for recovery within the designated OECD member countries is contained in a separate section.) Such reports shall include the following:

G.1.a. - I.4. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Waste Services, Hazardous Waste Division, LR 24:661 (April 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2471 (November 2000), LR 27:293 (March 2001), amended by the Office of the Secretary, Legal Affairs Division, LR 33:2103 (October 2007), LR 34:72 (January 2008).

Chapter 13. Transporters

§1315. Spills

A. - E. ...

1. give notice, if required by 49 CFR 171.15, to the National Response Center by telephone at (800) 424-8802 or (202) 267-2675; and

2. report in writing, as required by 49 CFR 171.16, to the Information Systems Manager, PHH-63, Pipeline and Hazardous Materials Safety Administration, Department of Transportation, Washington, DC 20590-0001, or send an electronic Hazardous Materials Incident Report to the Information System Manager, DHM-63, Research and Special Programs Administration, Department of Transportation, Washington, DC 20590-0001. An electronic Hazardous Materials Incident Report form can be obtained at <http://hazmat.dot.gov>.

F. As required by 33 CFR 153.203 for oil and hazardous substance, a water (bulk shipment) transporter who has discharged hazardous waste must immediately notify the National Response Center (NRC), U.S. Coast Guard, 2100 Second Street, SW, Washington, DC 20593 by telephone at (800) 424-8802 or (202) 267-2675.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 10:496 (July 1984), amended by the Office of the Secretary, Legal Affairs Division, LR 34:72 (January 2008).

§1319. Use and Reuse of Containers

A. - B.4. ...

C. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended by the Office of the Secretary, Legal Affairs Division, LR 34:73 (January 2008).

Chapter 15. Treatment, Storage, and Disposal Facilities

§1517. General Requirements for Ignitable, Reactive, or Incompatible Wastes

A. - D. ...

E. When required to comply with LAC 33:V.1517.A and B, the owner or operator must document that compliance. This documentation may be based on references to published scientific or engineering literature, data from trial tests (e.g., bench scale or pilot scale tests), waste analyses, or the results of the treatment of similar wastes by similar treatment processes and under similar operating conditions.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended by the Office of the Secretary, Legal Affairs Division, LR 34:73 (January 2008).

Chapter 43. Interim Status

Subchapter G. Financial Requirements

§4397. Applicability

A. ...

B. The requirements of LAC 33:V.4405 and 4407 apply only to owners and operators of:

B.1. - D.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 13:433 (August 1987), LR 13:651 (November 1987), LR 21:266 (March 1995), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1109 (June 1998), LR 25:486 (March 1999), amended by the Office of the Secretary, Legal Affairs Division, LR 34:73 (January 2008).

Chapter 49. Lists of Hazardous Wastes

§4999. Appendices—Appendix A, B, C, D, and E

Appendix A. - Appendix D. ...

Appendix E. Wastes Excluded under LAC 33:V.105.M

A. - B.3.b. ...

Table 1 - Wastes Excluded
* * *
[See Prior Text in Dupont Dow Elastomers LLC, Laplace, LA – BFI Waste Systems of Louisiana LLC, Colonial Landfill, Sorrento, LA, (4)]

Table 1 - Wastes Excluded
Syngenta Crop Protection, Inc., St. Gabriel, LA
Incinerator ash, at a maximum annual generation rate of 3,600 cubic yards per year, and incinerator scrubber water, at a maximum annual generation rate of 420,000 cubic yards per year (approximately 85 million gallons per year), result from incineration at the Syngenta Crop Protection, Inc., facility in St. Gabriel, Louisiana. Syngenta's waste stream includes the United States Environmental Protection Agency (USEPA) hazardous waste codes F001-F005, F024, K157-K159, and all P and U codes. The constituents of concern for these waste codes are listed in LAC 33:V.4901. This exclusion applies only to incinerator ash and incinerator scrubber water resulting from incineration conducted at Syngenta's St. Gabriel facility. Syngenta must implement a testing and management program that meets the following conditions for the exclusion to be valid.
* * *
[See Prior Text in (1) - (3)(A)]
(3)(B). Organic Constituents (all units are milligrams per liter) acetone—26.0; benzene—0.05; carbon tetrachloride—0.18; chloroform—0.14; 1,2-dichlorobenzene—0.77; hexachlorobenzene—0.13; nitrobenzene—0.14; pentachlorobenzene—0.04; pyridine—0.26; toluene—10.0; toxaphene—0.089; and vinyl chloride—0.05.
* * *
[See Prior Text in (4) - (4)(A)]

Table 1 - Wastes Excluded
* * *
[See Prior Text in Murphy Exploration and Production Company, Amelia, LA]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, LR 20:1000 (September 1994), amended by the Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 21:944 (September 1995), LR 22:830 (September 1996), amended by the Office of Waste Services, Hazardous Waste Division, LR 23:952 (August 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:2397 (December 1999), LR 26:2509 (November 2000), LR 29:1084 (July 2003), repromulgated LR 29:1475 (August 2003), amended by the Office of Environmental Assessment, LR 30:2464 (November 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 33:445 (March 2007), LR 33:825 (May 2007), LR 33:1016 (June 2007), LR 34:73 (January 2008).

Part IX. Water Quality

Subpart 2. The Louisiana Pollutant Discharge Elimination System (LPDES) Program

Chapter 27. LPDES Permit Conditions

§2707. Establishing Limitations, Standards, and Other Permit Conditions

A.1. - K.3. ...

4. the practices are reasonably necessary to achieve effluent limitations and standards or to carry out the purposes and intent of the CWA and the LEQA.

NOTE: Additional technical information on BMPs and the elements of BMPs is contained in the following documents: Guidance Manual for Developing Best Management Practices (BMPs), October 1993, EPA No. 833/B-93-004, NTIS No. PB 94-178324, ERIC No. W498; Storm Water Management for Construction Activities: Developing Pollution Prevention Plans and Best Management Practices, September 1992, EPA No. 832/R-92-005, NTIS No. PB 92-235951, ERIC No. N482; Storm Water Management for Construction Activities, Developing Pollution Prevention Plans and Best Management Practices: Summary Guidance, EPA No. 833/R-92-001, NTIS No. PB 93-223550, ERIC No. W139; Storm Water Management for Industrial Activities; Developing Pollution Prevention Plans and Best Management Practices, September 1992; EPA No. 832/R-92-006, NTIS No. PB 92-235969, ERIC No. N477; Storm Water Management for Industrial Activities, Developing Pollution Prevention Plans and Best Management Practices: Summary Guidance, EPA No. 833/R-92-002, NTIS No. PB 94-133782, ERIC No. W492. Copies of these documents (or directions on how to obtain them) can be obtained by contacting either the Office of Water Resource Center (using the EPA document number as a reference) at (202) 566-1729 or the Educational Resources Information Center (ERIC) (using the ERIC number as a reference) at (800) 538-3742. Updates of these documents or additional BMP documents may also be available. A list of EPA BMP guidance documents is available on the Office of Water Management Home Page at <http://www.epa.gov/owm>. In addition, states may have BMP guidance documents. These EPA guidance documents are listed here only for informational purposes; they are not binding and EPA does not intend that these guidance documents have any mandatory regulatory effect by virtue of their listing in this note.

L. - S. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended LR 23:724 (June 1997), LR 23:1523 (November 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2282 (October 2000), LR 26:2764 (December 2000), LR 28:469 (March 2002), LR 28:1767 (August 2002), repromulgated LR 30:230 (February 2004), amended by the Office of Environmental Assessment, LR 31:426 (February 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 33:2070 (October 2007), LR 34:74 (January 2008).

Chapter 49. Incorporation by Reference

§4905. Availability

A. Copies of documents incorporated by reference may be obtained from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20401, or by telephone at (866) 512-1800.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), repromulgated by the Office of Environmental Assessment, Environmental Planning Division, LR 30:232 (February 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 34:74 (January 2008).

Chapter 61. General Pretreatment Regulations for Existing and New Sources of Pollution

§6125. Variances from Categorical Pretreatment Standards for Fundamentally Different Factors

A. - H.9. ...

I. Deficient Requests. The administrator (or his delegate) or the state administrative authority will only act on written requests for variances that contain all of the information required. Persons who have made incomplete submissions will be notified by the administrator (or his delegate) or the state administrative authority that their requests are deficient and unless the time period is extended, will be given up to thirty days to remedy the deficiency. If the deficiency is not corrected within the time period allowed by the administrator (or his delegate) or the state administrative authority, the request for a variance shall be denied.

J. - M.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2556 (November 2000), repromulgated LR 30:232 (February 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2515 (October 2005), LR 33:2170 (October 2007), LR 34:74 (January 2008).

Part XI. Underground Storage Tanks

Chapter 7. Methods of Release Detection and Release Reporting, Investigation, Confirmation, and Response

§707. Reporting of Suspected Releases

A. - A.4.a. ...

b. a UST system analysis report result of "inconclusive."

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Underground Storage Tank Division, LR 16:614 (July 1990), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2559 (November 2000), LR 30:1677 (August 2004), amended by the Office of Environmental Assessment, LR 31:1073 (May 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 34:74 (January 2008).

Herman Robinson, CPM
Executive Counsel

0801#017

RULE

**Office of the Governor
Motor Vehicle Commission**

Advertising (LAC 46:V.Chapter 7)

In accordance with the provisions of the Administrative Procedure Act R.S. 49:950 et seq., and in accordance with Revised Statutes Title 32, Chapter 6, the Office of the Governor, Louisiana Motor Vehicle Commission, hereby repeals Chapter 7 and replaces it with new regulations and language to clarify the Rule, put into the Rule customary

procedures of the commission to assist its licensees in designing their advertising programs.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part V. Automotive Industry

Subpart 1. Motor Vehicle Commission

Chapter 7. Advertising

§701. Advertising; Dealer Name

A. Dealers may advertise only under the name that appears on their franchise agreement and dealer license issued by the Motor Vehicle Commission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1253 E.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Motor Vehicle Commission, LR 34:75 (January 2008).

§703. General Prohibition

A. A person advertising motor vehicles shall not use false, deceptive, unfair, or misleading advertising.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1253 E.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Motor Vehicle Commission, LR 34:75 (January 2008).

§705. Specific Rules

A. The violation of an advertising rule shall be considered by the commission as a prima facie violation of the Louisiana Motor Vehicle Commission Law. In addition to a violation of a specific advertising rule, any other advertising or advertising practices found by the commission to be false, deceptive, or misleading shall be deemed violations of the Louisiana Motor Vehicle Commission Law, and shall also be considered violations of the general prohibition.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1253 E.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Motor Vehicle Commission, LR 34:75 (January 2008).

§707. Definitions

Abbreviations—using shortened terms for words or initials for groups of words. Commonly understood abbreviations, such as " '2DR'," " 'AM/FM'," " 'APR'," " 'WAC'," " 'DEMO'," " 'EXEC'," " 'DOC FEE'," may be used. Trade industry abbreviations which are not commonly understood, such as " 'FTB'," " 'A/R'," " 'TOP'," " 'POF'," or " 'DOC'," MAY NOT be used. This rule does not contain a list of all the abbreviations one may not use.

Advertisement—an oral, written, telecommunicated, graphic, or pictorial statement made in the course of soliciting business, including, without limitation, a statement or representation made in a newspaper, magazine, or other publication, or contained in a notice, sign, poster, display, circular, pamphlet, letter, flyer, price tag, window sticker, banners, billboards, handbills, or on radio, the Internet, or via on-line computer service, or on television or on-hold messaging, any medium.

Bait Advertisement—an alluring but insincere offer to sell or lease a product of which the primary purpose is to obtain leads to persons interested in buying or leasing merchandise of the type advertised and to switch consumers from buying or leasing the advertised product in order to sell some other product at a higher price or on a basis more advantageous to the advertiser.

Balloon Payment—any scheduled payment required by a consumer credit sale or consumer loan that is more than twice as large as the average of all prior scheduled payments except the down payment.

Dealership Addendum—a form which is to be displayed on a window of a motor vehicle when the dealership installs special features, equipment, parts or accessories, or charges for services not already compensated by the manufacturer or distributor for work required to prepare a vehicle for delivery to a buyer.

1. The addendum is to disclose:

a. that it is supplemental;

b. any added feature, service, equipment, part, or accessory charged and added by the dealership and the retail price therefore;

c. any additional charge to the manufacturer's suggested retail price (MSRP) such as additional dealership markup; and

d. the total dealer retail price.

2. The dealership addendum form shall not be deceptively similar in appearance to the manufacturer's label, which is required to be affixed by every manufacturer to the windshield or side window of each new motor vehicle under the Automobile Information Disclosure Act.

Demonstrator—a new motor vehicle that is currently in the inventory of the automobile dealership and used or has been used primarily for test drives by customers and other dealership purposes and so designated by the dealership. Demonstrators may be advertised for sale as such only by an authorized dealer in the same make of motor vehicle.

Disclaimer—those words or phrases used to provide a clear understanding of any advertised statement, but not used to contradict or change the meaning of the statement.

Disclosure—a clear and conspicuous statement made in such size, color, contrast, location, duration, and audibility that it is readily noticeable, readable and understandable. The disclosure may not contradict or be inconsistent with any other information with which it is presented. If the disclosure modifies, explains, or clarifies other information with which it is presented, or states "see dealership for details," then it must be presented in proximity to the information it modifies, in a manner readily noticeable, readable, and understandable, and it must not be obscured in any manner.

1. An audio disclosure must be delivered in a volume and cadence sufficient for a consumer to hear and comprehend it.

2. A visual disclosure for television must appear on the screen for a duration sufficient for a consumer to read and comprehend it.

3. In a print or internet advertisement or promotional material, including without limitation point of sale display or brochure materials directed to consumers, a disclosure must be in a type size and location sufficiently noticeable for a consumer to read and comprehend it, in a print that contrasts with the background against which it appears. For purposes of these rules, qualifying terms and phrases will be considered to be clearly, conspicuously and accurately set forth if they are:

a. in bold print and type of such size that is capable of being read without unreasonable extra effort;

b. expressed in terms that are understandable to the buying public; and

c. in close proximity to the qualified representation and not separated or buried by asterisk in some other part of the advertisement.

Factory Executive/Official Vehicle—a new motor vehicle that has been used exclusively by an executive or official of the dealer's franchising manufacturer, distributor or their subsidiaries.

Internet—a system that connects computers or computer network.

Licensee—any person required to obtain a license from the Louisiana Motor Vehicle Commission.

Manufacturer's Label—the label required by the Automobile Information Disclosure Act, 15 U.S.C. 1231-1233, to be affixed by the manufacturer to the windshield or side window of each new automobile delivered to the dealer.

Program Vehicle—used vehicle that is purchased at a manufacturer's closed auction or sold by or directly from the manufacturer or distributor which is current or previous year model, that has been previously tagged and/or titled, and returned to the manufacturer for disposal.

Rebate or Cash Back—a sum of money refunded to a purchaser for the benefit by the manufacturer or distributor after full payment has been rendered. The purchaser may choose to reduce the amount of the purchase price by the sum of money or the purchaser may opt for the money to be returned to himself or for his benefit subsequent to payment in full.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1253 E.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Motor Vehicle Commission, LR 34:75 (January 2008).

§709. Availability of Vehicles

A. A licensee may advertise a specific vehicle or line-make of vehicles for sale if:

1. the specific vehicle or line is in the possession of the licensee at the time the advertisement is placed, or the vehicle may be obtained from the manufacturer or distributor or some other source, and this information is clearly and conspicuously disclosed in the advertisement; and

2. the price advertisement sets forth the number of vehicles available at the time the advertisement is placed or a dealer can show he has available a reasonable expectable public demand based on prior experience. In addition, if an advertisement pertains to only one specific vehicle, then the advertisement must also disclose the vehicle's stock number or vehicle identification number.

B. Motor vehicle dealers may advertise a specific used vehicle or vehicles for sale if:

1. the specific used vehicle or vehicles is in the possession of the dealer at the time the advertisement is placed; and

2. the title certificate to the used vehicle has been assigned to the dealer.

C. This Section does not prohibit general advertising of vehicles by a manufacturer, dealer advertising association, or distributor and the inclusion of the names and addresses of the dealers selling such vehicles in the particular area.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1253 E.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Motor Vehicle Commission, LR 34:76 (January 2008).

§711. Accuracy

A. All advertised statements shall be accurate, clear and conspicuous.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1253 E.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Motor Vehicle Commission, LR 34:76 (January 2008).

§713. Untrue Claims

A. The following statements are prohibited, list not exclusive:

1. statements such as "write your own deal," "name your own price," "name your own monthly payments," "appraise your own motor vehicle" or statements with similar meaning;

2.a. statements such as "everybody financed," "no credit rejected," "we finance anyone," "guaranteed approval," and other similar statements representing or implying that no prospective credit purchaser will be rejected because of his inability to qualify for credit;

b. statements such as "all credit applications accepted," or terms with similar meaning are deemed deceptive and shall not be used;

3. statements representing that no other person grants greater allowances for trade-ins, however stated, unless such is the case;

4. statements representing that because of its large sales volume a person is able to purchase vehicles for less than another person selling the same make of vehicles. Statements such as "big volume buying power," "manufacturer's outlet," "factory authorized outlet," and "factory wholesale outlet," shall not be used. Any term that gives the consumer the impression the dealer has a special arrangement with the manufacturer or distributor as compared to similarly situated dealers, is misleading and shall not be used;

5. "double rebates," "triple rebates" or any other amount of rebates that are not truly offered by the manufacturer are prohibited;

6. specific claims or discount offers shall not be used in connection with any motor vehicle other than new or a demonstrator and then only to show the difference between the dealer's own current selling price and the bona fide manufacturer's suggested list price, if an automobile, or manufacturer's suggested retail price, if a truck. Full explanation must be given, as for example, "save or discount \$ from manufacturer's list/retail price." Such statements as "up to," "as much as," "from"-to," etc., shall not be used in connection with savings claims;

7. any claims such as "first," "largest" and/or "biggest" may be advertised only when the licensee is the "first," "largest" and/or "biggest" in retail sales for a calendar year. The claim of "first," "largest" and/or "biggest" must be qualified as to validity (using valid source data) and the time period of the claim with all qualifying language to be in the same size print as the claim. Additionally, the advertisement of the claim may only be utilized for the following calendar year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1253 E.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Motor Vehicle Commission, LR 34:76 (January 2008).

§715. Layout

A. The layout, headlines, illustrations, or type size of a printed advertisement and the broadcast words or pictures of radio/TV advertisements shall not convey or permit an erroneous or misleading impression as to which vehicle or vehicles are offered for sale or lease at featured prices. No advertised offer, expression, or display of price, terms, down payment, trade-in allowance, cash difference, savings, or other such material terms shall be misleading and any necessary qualification shall be clearly, conspicuously, and accurately set forth to prevent misunderstanding.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1253 E.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Motor Vehicle Commission, LR 34:77 (January 2008).

§717. Manufacturer's Suggested Retail Price

A. The suggested retail price of a new motor vehicle when advertised by a manufacturer or distributor shall include all costs and charges for the vehicle advertised, except that destination and dealer preparation charges, state and local taxes, title, and license fees may be excluded from such price, provided that the advertisement clearly and conspicuously states that such costs and charges are excluded. With respect to advertisements placed with local media in Louisiana by a manufacturer or distributor which includes the names of the local dealers of the vehicles advertised, if the price of a vehicle is stated in the advertisement, such price must include all costs and charges for the vehicle advertised, including destination and dealer preparation charges and may exclude only state and local taxes, license, and title fees.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1253 E.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Motor Vehicle Commission, LR 34:77 (January 2008).

§719. Dealer Price Advertising

A. The featured price of a new or used motor vehicle, when advertised, must be the full cash price for which the vehicle will be sold to any and all members of the buying public. The only charges that may be excluded from the advertised price are:

1. state and local taxes;
2. license;
3. title; and
4. notarial fees, convenience fees and documentary fees.

B. A qualification may not be used when advertising the price of a vehicle such as "with trade," "with acceptable trade," "with dealer-arranged financing," "rebate assigned to dealer" or "with down payment."

C. If a price advertisement of a new motor vehicle discloses a rebate, cash back, discount savings claim, or other incentive, the full cash price of the vehicle must be disclosed as well as the price of the vehicle after deducting the incentive. The following is an acceptable format for advertising a price with rebates and other deductions.

Mfg. Sugg. Retail Price	\$9,995
less rebate	\$ 500
less dealer discount	\$ 500
Sale Price	\$8,995

D. If a rebate is only available to a selected portion of the public and not the public as a whole, the price should be disclosed as in Subsection C first and then the nature of the limitation and the amount of the limited rebate may be disclosed. The following is an acceptable format.

Mfg. Sugg. Retail Price	\$9,995
less rebate	\$ 500
less dealer discount	\$ 500
Sale Price	\$8,995
First Time Buyer's Receive Additional \$500 Off	

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1253 E.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Motor Vehicle Commission, LR 34:77 (January 2008).

§721. Identification

A. When the price of a vehicle is advertised, the following must be disclosed:

1. model year;
2. make;
3. model line and style or model designation; and
4. whether the vehicle is a used, demonstrator, or a factory executive/official vehicle.

B. Expressions such as "fully equipped," "factory equipped," "loaded," and other such terms shall not be used in any advertisement that contains the price of a vehicle unless the optional equipment of the vehicle is listed in the advertisement.

C. An illustration of a motor vehicle used in an advertisement must be substantially the same as that of the motor vehicle advertised.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1253 E.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Motor Vehicle Commission, LR 34:77 (January 2008).

§723. Advertising at Cost or Invoice

A. No advertisement shall be run which uses the term or terms "invoice;" "cost;" "percent over/under cost, invoice or profit;" "\$\$\$ over/under cost, invoice or profit."

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1253 E.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Motor Vehicle Commission, LR 34:77 (January 2008).

§725. Trade-In Allowances

A. No guaranteed trade-in amount or range of amounts shall be featured in advertising.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1253.E.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Motor Vehicle Commission, LR 34:77 (January 2008).

§727. Used Vehicles

A. A used vehicle shall not be advertised in any manner that creates the impression that it is new. A used vehicle shall be identified as either "used" or "pre-owned." Terms such as program car, special purchase, factory repurchase, certified or other similar terms are not sufficient to designate a vehicle as used, and these vehicles must also be identified as "used" or "pre-owned."

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1253.E.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Motor Vehicle Commission, LR 34:77 (January 2008).

§729. Demonstrators, Factory Executive/Official Vehicles

A. If a demonstrator or factory executive/official vehicle is advertised, the advertisement must clearly and conspicuously identify the vehicle as a demonstrator or factory executive/official vehicle. A demonstrator or factory executive/official vehicle may be sold only by a dealer franchised and licensed to sell that line-make of new motor vehicle.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1253.E.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Motor Vehicle Commission, LR 34:78 (January 2008).

§731. Auction

A. Terms such as "auction" or "auction special" and other terms of similar import shall be used only in connection with a vehicle offered or sold at a bona fide auction.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1253.E.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Motor Vehicle Commission, LR 34:78 (January 2008).

§733. Free Offers

A. No merchandise or enticement may be described as "free" if the vehicle can be purchased or leased for a lesser price without the merchandise or enticement of if the price of the vehicle has been increased to cover the cost or any part of the cost of the merchandise or enticement. The advertisement shall clearly and conspicuously disclose the conditions under which the "free" offer may be obtained.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1253.E.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Motor Vehicle Commission, LR 34:78 (January 2008).

§735. Cash Offers

A. Any cash offer or anything that is convertible to cash funded by the dealer shall not be used and is prohibited.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1253.E.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Motor Vehicle Commission, LR 34:78 (January 2008).

§737. Authorized Dealer

A. The term "authorized dealer" or a similar term shall not be used unless the advertising dealer holds both a franchise and a Louisiana Motor Vehicle Commission license to sell those vehicles he is holding himself out as "authorized" to sell.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1253.E.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Motor Vehicle Commission, LR 34:78 (January 2008).

§739. Manufacturer and Distributor Rebates

A. It is unlawful for a manufacturer or distributor to advertise any offer of a rebate, refund, discount, or other financial inducement or incentive, which is either payable to or for the benefit of the purchaser or which reduces the amount to be paid for the vehicle, whether the amount is the vehicle purchase price, the interest or finance charge expense, or any other cost accruing to the purchaser if any portion of such rebate, refund, discount, or other financial incentive or inducement is paid or financed or in any manner contributed to by the dealer selling the vehicle, unless the advertisement discloses that the dealer's contribution may affect the final negotiated price of the vehicle. With respect to interest or finance charge expense programs, an

advertisement shall disclose that participating dealers contribute to the reduction of the financing rate and that the dealer's contribution may affect the final negotiated price of the vehicle.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1253.E.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Motor Vehicle Commission, LR 34:78 (January 2008).

§741. Rebate and Financing Rate Advertising by Dealers

A. It is unlawful for a dealer to advertise an offer of a manufacturer's or distributor's rebate, discount, or other financial inducement or incentive if the dealer contributes to the manufacturer's or distributor's program unless such advertising discloses that the dealer's contribution may affect the final negotiated price of the vehicle. With respect to interest or finance charge expense programs, if a participating dealer contributes to the reduction of a financing rate, then a disclosure must state that the dealer's contribution may affect the final negotiated price of the vehicle.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1253.E.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Motor Vehicle Commission, LR 34:78 (January 2008).

§743. Lease Advertisements

A. Vehicle lease advertisements shall clearly and conspicuously disclose that the advertisement is for the lease of a vehicle. Statements such as "alternative financing plan," "drive away for \$_____ per month," or other terms or phrases that do not use the term "lease," do not constitute adequate disclosure of a lease. Lease advertisements shall not contain the phrase "no down payment" or words of similar import if any outlay of money is required to be paid by the customer to lease the vehicle. Lease terms that are not available to the general public shall not be included in advertisements directed at the general public, or all limitations and qualifications applicable to qualified buyers to the lease terms advertised shall be clearly and conspicuously disclosed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1253.E.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Motor Vehicle Commission, LR 34:78 (January 2008).

§745. Manufacturer Sales; Wholesale Prices

A. New vehicles shall not be advertised for sale in any manner that creates the impression that they are being offered for sale by the manufacturer or distributor of the vehicles. Advertisements by persons shall not contain terms such as "factory sale," "fleet prices," "wholesale prices," "factory approved," "factory sponsored," or any other similar terms which indicate sales other than retail sales from the dealer.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1253.E.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Motor Vehicle Commission, LR 34:78 (January 2008).

§747. Savings Claims; Discounts

A. A savings claim or discount offer is prohibited except to advertise a new or demonstrator vehicle, and the advertisement must show the difference between the dealer's selling price and the manufacturer's, distributor's, or converter's total suggested list price or MSRP.

B. The featured savings claim or discount offer for a new motor vehicle, when advertised, must be the savings claim or discount which is available to any and all members of the buying public.

C. If a dealer has added an option obtained from the manufacturer or distributor of the motor vehicle on which it is installed and disclosed the option and factory suggested retail price of the option on a dealership addendum sticker prior to offering the vehicle for sale at retail, the dealer may advertise a savings claim on that vehicle as long as the difference is shown between the dealer's selling price and the total selling price as disclosed on the dealership addendum sticker and discloses the factory-available options added in the advertisement. If an option that is added by a dealer is not a factory-available option, a savings claim may not be advertised on that vehicle.

D. Statements such as "up to," "as much as," "from," shall not be used in connection with savings or discount claims.

E. No person may advertise a savings claim or discount offer on used motor vehicles.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1253.E.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Motor Vehicle Commission, LR 34:78 (January 2008).

§749. Sales Payment Disclosures

A.1. An advertisement that contains any one of the following messages, statements, or terms:

- a. the amount of a down payment, in either a percentage or dollar amount;
- b. the amount of any payment, in either a percentage or dollar amount;
- c. the number of payments;
- d. the period of repayment; or
- e. the amount of any finance charge;

2. must include the following:

- a. the amount or percentage of the down payment;
- b. the terms of repayment (the number of months to make repayment and the amount per month) including the amount and due date of any balloon payment;
- c. the annual percentage rate or APR; and
- d. the amount of annual percentage rate, if increased, after consummation of the credit transaction.

B. An advertisement which complies with the Federal Truth-In-Leading Act (15 U.S.C. §160 et seq.) and amendments thereto, and any regulations issued or which may be issued thereunder, shall be deemed in compliance with the provisions of this Section. Any advertisement not in compliance with these federal provisions constitutes violation(s) of this rule.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1253.E.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Motor Vehicle Commission, LR 34:79 (January 2008).

§751. Payment Disclosure—Lease

A. It is an unfair or deceptive act to advertise the offer of a "consumer lease" if the advertisement contains any one of the following two "triggering terms": amount of any payment or a statement of any capitalized cost reduction or other payment required prior to or at consummation or by delivery, if delivery occurs after consummation, without clearly and conspicuously disclosing:

1. that the transaction is a lease in close proximity to and, where applicable, in the same decibel tone as, the amount of the periodic payment;

2. the total amount due prior to or at consummation or by delivery, if delivery occurs after consummation;

3. the number, amounts, and due dates or periods of scheduled payments under the lease;

4. a statement of whether a security deposit is required; and

5. a statement that an extra charge may be imposed at the end of the lease term where the lessee's liability (if any) is based on the difference between the residual value of the leased property and its realized value at the end of the lease term.

B. Except for the statement of a periodic payment, any affirmative or negative reference to a charge that is part of the total amount due at lease signing shall not be more prominent than that disclosure.

C. An advertisement which complies with the Consumer Leasing Act of 1976 (15 USC 1601 et seq.), and amendments thereto, and any regulations issued or which may be issued thereunder, shall be deemed in compliance with the provisions of this Section.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1253 E.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Motor Vehicle Commission, LR 34:79 (January 2008).

§753. Bait Advertisement

A. "Bait" advertisement, as defined in §707, shall not be used by any person.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1253 E.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Motor Vehicle Commission, LR 34:79 (January 2008).

§755. Lowest Price Claims

A. Representing a lowest price claim, best price claim, best deal claim, or other similar superlative claim shall not be used in advertising.

B. A person may not advertise a "meet or beat" guarantee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1253 E.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Motor Vehicle Commission, LR 34:80 (January 2008).

§757. Fleet Prices

A. Terms such as "fleet prices," "fleet sales," "suppliers prices," or other terms implying that retail individual customers will be afforded the same price and/or discount as multi-purchase commercial businesses shall not be used in advertising.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1253 E.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Motor Vehicle Commission, LR 34:79 (January 2008).

§759. Bankruptcy/Liquidation Sale

A. No licensee may willfully misrepresent the ownership of a business for the purpose of holding a liquidation sale, auction sale, or other sale which represents that the business is going out-of-business. A person who advertises a liquidation sale, auction sale, or going out-of-business sale shall state the correct name and permanent address of the owner of the business in the advertisement. A person may

not conduct a sale advertised with the phrase "going out-of-business," "closing out," "shutting doors forever," "bankruptcy sale," "foreclosure," or "bankruptcy," or similar phrases or words indicating that an enterprise is ceasing business unless the business is closing its operations and follows the procedures required by Chapter 1, Part II, Title 51, Trade and Commerce, Louisiana Revised Statutes.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1253 E.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Motor Vehicle Commission, LR 34:79 (January 2008).

Lessie House
Executive Director

0801#030

RULE

Department of Health and Hospitals Office of the Secretary Bureau of Health Services Financing

Pain Management Clinics—Licensing Standards (LAC 48:I.Chapter 78)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing has adopted LAC 48:I.Chapter 78 as authorized by R.S. 40:2198.11-13. This Rule is promulgated in accordance with the Administrative Procedure Act, R.S. 49:950 et seq.

Title 48

PUBLIC HEALTH—GENERAL

Part I. General Administration

Subpart 3. Licensing and Certification

Chapter 78. Pain Management Clinics

Subchapter A. General Provisions

§7801. Definitions

Addiction Facility—a facility that is licensed for the treatment of addiction to, or abuse of illicit drugs or alcohol, or both.

Board—the Louisiana State Board of Medical Examiners.

Chronic Pain—pain which persists beyond the usual course of a disease, beyond the expected time for healing from bodily trauma, or pain associated with a long-term incurable or intractable medical illness or disease.

Controlled Substance—any substance defined, enumerated or included in federal or state statute or regulations 21 C.F.R. §1308.11-15 or R.S.40:964, or any substance which may hereafter be designated as a controlled substance by amendment or supplementation of such regulations and statutes.

Deficient Practice—a finding of non-compliance with a licensing regulation.

Department—the Department of Health and Hospitals.

Health Standards Section—the section within the Department of Health and Hospitals with responsibility for licensing pain management clinics.

Intractable Pain—a chronic pain state in which the cause of the pain cannot be eliminated or successfully treated without the use of controlled substance therapy and, which in the generally accepted course of medical practice, no cure of the cause of pain is possible or no cure has been achieved

after reasonable efforts have been attempted and documented in the patient's medical record.

Noncancer-Related Pain—pain which is not directly related to symptomatic cancer.

Non-Malignant—synonymous with noncancer-related pain.

Operated By—actively engaged in the care of patients at a clinic.

Pain Management Clinic or "Clinic"—a publicly or privately owned facility which primarily engages in the treatment of pain by prescribing narcotic medications.

Pain Specialist—a physician, licensed in Louisiana, with a certification in the subspecialty of pain management by a member board of the American Boards of Medical Specialties.

Physician—an individual who:

1. possesses a current, unrestricted license from the board to practice medicine in Louisiana;

2. during the course of his practice has not been denied the privilege of prescribing, dispensing, administering, supplying, or selling any controlled dangerous substance; and

3. during the course of his practice has not had board action taken against his medical license as a result of dependency on drugs or alcohol.

Primarily Engaged—the majority of patients, 51 percent or more of the patients seen on any day a clinic is in operation, are issued a narcotic prescription for the treatment of chronic non-malignant pain. A physician who in the course of his practice, treats patients with chronic pain, shall not be considered primarily engaged in the treatment of chronic non-malignant pain by prescribing narcotic medications provided that the physician:

1. treats patients within their areas of specialty and who utilizes other treatment modalities in conjunction with narcotic medications;

2. is certified by a member board of the American Board of Medical Specialties, or is eligible for certification based upon his completion of an ACGME (Accreditation Council for Graduate Medical Education) certified residency training program; and

3. currently holds medical staff privileges that are in good standing at a hospital in this state.

Urgent Care Facility—a medical clinic which offers primary and acute health services to the public during stated hours of operation and which must accommodate walk-in patients seeking acute health services. For purposes of this definition, the treatment of chronic pain patients is not considered acute health services.

AUTHORITY NOTE: Promulgated in accordance with R.S. R.S. 40:2198.11-13.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:80 (January 2008).

§7803. Ownership

A. Except as specified in §7803.B, each clinic shall be 100 percent owned and operated by a physician certified in the subspecialty of pain management by a member board of the American Boards of Medical Specialties.

B. A clinic in operation on or before June 15, 2005, is exempt from §7803.A if all of the following requirements are met.

1. The clinic is not owned, either in whole or in part, by independent contract, agreement, partnership, or joint venture with a physician who during the course of his practice has:

a. been denied the privilege of prescribing, dispensing, administering, supplying, or selling any controlled dangerous substance; and

b. had board action taken against his medical license as a result of dependency on drugs or alcohol.

2. The clinic is not owned, either in whole or in part, by an individual who has been convicted of, pled guilty or nolo contendere to a felony.

3. The clinic is not owned, either in whole or in part, by an individual who has been convicted of, pled guilty or nolo contendere to a misdemeanor, the facts of which relate to the use, distribution, or illegal prescription of any controlled substance.

4. The clinic shall operate as an urgent care facility offering primary or acute health services, in addition to caring for patients with chronic pain, and shall have held itself out to the public as an urgent care facility.

C. Any change of ownership (CHOW) shall be reported in writing to the Health Standards Section within five working days of the transfer of ownership by any lawful means. The license of a clinic is not transferable or assignable between individuals, clinics or both. A license cannot be sold.

1. The new owner shall submit all documents required for a new license including the licensing fee. Once all application requirements are completed and approved by the department, a new license shall be issued to the new owner.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40.2198.11-13.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:80 (January 2008).

Subchapter B. Licensing Procedures

§7811. General Provisions

A. It shall be unlawful to operate a clinic without obtaining a license issued by the department. The department is the only licensing agency for pain management clinics in the state of Louisiana.

B. A clinic shall renew its license annually. A renewal application and licensing fee shall be submitted at least 30 days before the expiration of the current license. Failure to do so shall be deemed to be a voluntary termination and expiration of the facility's license. The license shall be surrendered to the department within 10 days, and the facility shall immediately cease providing services.

C. A license shall be valid only for the clinic to which it is issued and only for that specific geographic address. A license shall not be subject to sale, assignment, or other transfer, voluntary or involuntary. The license shall be conspicuously posted in the clinic.

D. Any change regarding the clinic's name, geographical or mailing address, phone number, or key administrative staff or any combination thereof, shall be reported in writing to the Health Standards Section within five working days of the change.

1. Any name change requires a change in the license and shall be accompanied by a \$25 fee.

E. A separately licensed clinic shall not use a name which is substantially the same as the name of another clinic licensed by the department.

F. Any request for a duplicate license shall be accompanied by a \$5 fee.

G. A clinic intending to have controlled dangerous medications on the premises shall make application for a Controlled Dangerous Substance (CDS) License, and shall comply with all federal and state regulations regarding procurement, maintenance and disposition of such medications.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40.2198.11-13.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:81 (January 2008).

§7813. Initial Application Process

A. An application packet for licensing as a pain management clinic shall be obtained from the Department of Health and Hospitals. A completed application packet for a clinic shall be submitted to and approved by the department prior to an applicant providing services.

B. An initial applicant shall submit a completed application packet including:

1. the current non-refundable licensing fee pursuant to R. S. 40:2198.13;

2. an approval for occupancy from the Office of the State Fire Marshal;

3. a recommendation for licensure from the Office of Public Health (OPH) based on an OPH inspection;

4. a zoning approval from local governmental authorities;

5. a criminal background check on all owners;

6. verification of the physician owner's certification in the subspecialty of pain management unless said owner meets the exemption at §7403(B); and

7. proof of operation as an urgent care facility if the pain management clinic was in operation on or before June 15, 2005:

a. this proof shall be an occupational license or certificate of operation issued by local governmental authorities, in addition to verifying information that indicates the facility held itself out to the public as an urgent care facility.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40.2198.11-13.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:81 (January 2008).

§7815. Licensing Surveys

A. After approval of the initial application by the department, a clinic shall undergo an initial licensing survey to determine that the clinic is in compliance with all licensing regulations. The clinic will receive advance notification of this survey.

1. No patient shall be provided service until the initial licensing survey has been performed and the clinic found to be in compliance.

2. In the event the initial licensing survey finds that a clinic is not in compliance with regulations of this Chapter, the department shall deny the initial license.

B. After the initial licensing survey, the department shall conduct a licensing survey at regular intervals as it deems necessary to determine compliance with licensing regulations. These surveys shall be unannounced to the clinic.

C. The department may conduct a complaint investigation for any complaint received against a clinic. A complaint survey shall be unannounced to the clinic.

D. A follow-up survey shall be done following any licensing survey or any complaint survey to ensure correction of a deficient practice cited on the previous survey. Such surveys shall be unannounced to the clinic.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40.2198.11-13.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:81 (January 2008).

§7817. Issuance of Licenses

A. The department shall have authority to issue two types of licenses: a full license or provisional license.

B. A full license may be issued only to applicants that are in compliance with all applicable federal, state and local laws and regulations. This license shall be valid until the expiration date shown on the license, unless the license has been revoked, terminated, or suspended.

C. A provisional license may be issued to those existing licensed clinics that do not meet the criteria for full licensure. This license shall be valid for no more than six months, unless the license has been revoked, terminated, or suspended.

1. A provisional license may be issued by the department for one of the following reasons, including but not limited to:

- a. the clinic has more than five deficient practices during any one survey;
- b. the clinic has more than three valid complaints in a one-year period;
- c. there is a documented incident of placing a patient at risk;
- d. the clinic fails to correct deficient practices within 60 days of being cited or at the time of the follow-up survey, whichever occurs first.

2. A clinic with a provisional license may be issued a full license if at the follow-up survey the clinic has corrected the deficient practice. A full license will be issued for the remainder of the year until the clinic's license anniversary date.

3. The department may re-issue a provisional license or initiate a license revocation of a provisional license when the clinic fails to correct deficient practice within 60 days of being cited or at the time of the follow-up survey, whichever occurs first.

4. The department may also issue a provisional license if there is documented evidence that any representative of the clinic has (without the knowledge or consent of clinic's owner, medical director and/or administrator) bribed, harassed, offered, paid for or received something of economic value for the referral of an individual to use the services of a particular clinic.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40.2198.11-13.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:82 (January 2008).

§7819. License Denial, Revocation or Non-Renewal

A. Pursuant to R.S. 49:950, the Administrative Procedures Act, the department may:

1. deny an application for a license;
2. refuse to renew a license; or
3. revoke a license.

B. A clinic license may not be renewed or may be revoked for any of the following reasons, including but not limited to:

1. failure to be in substantial compliance with pain management clinic licensing regulations;
2. failure to uphold patient rights whereby deficient practice may result in harm, injury or death of a patient;
3. failure of the clinic to protect a patient from a harmful act by a clinic employee or other patient(s) on the premises, including but not limited to:
 - a. an action posing a threat to patient or public health and safety;
 - b. coercion;
 - c. threat or intimidation;
 - d. harassment;
 - e. abuse; or
 - f. neglect;
4. failure to notify proper authorities of all suspected cases of neglect, criminal activity, mental or physical abuse, or any combination thereof;
5. failure to maintain sufficient staff to meet the needs of the patient;
6. failure to employ qualified personnel;
7. failure to remain operational on the days, and during the hours, the clinic has reported to the department that it will be open, unless the closure is unavoidable due to a man-made or natural disaster;
8. failure to submit fees, including but not limited to:
 - a. fee for the change of address or name;
 - b. any fine assessed by the department; or
 - c. fee for a CHOW;
9. failure to allow entry to a clinic or access to requested records during a survey;
10. failure to protect patients from unsafe care by an individual employed by a clinic;
11. failure to correct deficient practice for which a provisional license has been issued;
12. when clinic staff or owner has knowingly, or with reason to know, made a false statement of a material fact in any of the following:
 - a. application for licensure;
 - b. data forms;
 - c. clinical records;
 - d. matters under investigation by the department;
 - e. information submitted for reimbursement from any payment source; or
 - f. advertising;
13. clinic staff misrepresented or fraudulently operated a clinic;
14. conviction of a felony, or entering a plea of guilty or nolo contendere to a felony by an owner, administrator,

director of nursing, or medical director as evidenced by a certified copy of the conviction;

15. failure to comply with all reporting requirements in a timely manner as requested by the department; or

16. action taken by the board against a physician owning, employed or under contract to a clinic for violation of the board's Pain Management Rules or other violations of the Medical Practice Act which would make him ineligible for licensure.

C. In the event a clinic's license is revoked or denied renewal, no other license application shall be accepted by the department from the owners of the revoked or denied clinic for a period of two years from the date of the final disposition of the revocation or denial action.

D. When a clinic is under a license revocation action, that clinic is prohibited from undergoing a change of ownership.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40.2198.11-13.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:82 (January 2008).

§7821. Notice and Appeal Procedures

A. The department shall furnish the applicant or clinic with written notice of the department's decision to deny a license, revoke a license, or refusal to renew a license.

1. The notice shall specify reasons for the action and shall notify the applicant or clinic of the right to request an administrative reconsideration or to request an appeal. A voluntary termination or expiration of the license is not considered an adverse action and is therefore not appealable.

2. The clinic shall have the right to file a suspensive appeal from the department's decision to revoke the clinic's license.

B. Administrative Reconsideration. A clinic may request an administrative reconsideration of the department's decision to revoke, deny, or refuse to renew a license.

1. A request for an administrative reconsideration shall be submitted in writing to the Health Standards Section within 15 days of receipt of notification of the department's action.

2. Administrative reconsideration is an informal process and shall be conducted by a designated official of the department who did not participate in the initial decision to impose the action taken.

a. The designated official shall have the authority to:

- i. affirm the department's decision;
- ii. rescind the department's decision;
- iii. affirm part or rescind part of the department's decision; or
- iv. request additional information from either the department or the clinic.

b. A department spokesman and a clinic spokesman may make an oral presentation to the designated official during the administrative reconsideration.

3. Administrative reconsideration may be made solely on the basis of documents or oral presentations, or both, before the designated official and shall include:

- a. the statement of deficient practice; and
- b. any documentation the clinic may submit to the department at the time of the clinic's request for such reconsideration.

4. Correction of a deficiency shall not be a basis for administrative reconsideration.

5. An administrative reconsideration is not in lieu of the administrative appeals process and does not extend the time limits for filing an administrative appeal under the provisions of the Administrative Procedures Act.

C. Administrative Appeal Process. Upon denial or revocation of a license by the department, the clinic shall have the right to appeal such action by submitting a written request to the secretary of the department within 30 days after receipt of the notification of the denial or revocation of a license.

1. Correction of a deficiency shall not be the basis of an administrative appeal. Request for administrative reconsideration does not affect time frames for requesting an administrative appeal.

2. Notwithstanding the provisions of §7821.C, the department may immediately revoke a license in any case in which the health and safety of a client or the community may be at risk.

a. The clinic which is adversely affected by the action of the department in immediately revoking a license may, within 30 days of the closing, appeal devolutively from the action of the department by filing a written request for a hearing to the secretary of the department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40.2198.11-13.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:83 (January 2008).

Subchapter C. Clinic Administration

§7831. Medical Director

A. Each clinic shall be under the direction of a medical director who shall be a physician who:

1. possesses a current, unrestricted license from the board to practice medicine in Louisiana;
2. during the course of his practice, has not been denied the privilege of prescribing, dispensing, administering, supplying, or selling any controlled dangerous substance; and
3. during the course of his practice has not had any board action taken against his medical license as a result of dependency on drugs or alcohol.

B. The medical director shall be a physician certified in the subspecialty of pain management by a member board of the American Boards of Medical Specialties, except for the following exemption.

1. A clinic which has been verified as being in operation on or before June 15, 2005, is required to have a medical director, but is exempt from having a medical director who is certified in the subspecialty of pain management by a member board of the American Boards of Medical Specialties.

C. Responsibilities. The medical director is responsible for the day-to-day operation of a clinic and shall be on-site 50 percent of the time during the operational hours of the clinic. In the event the medical director is not on-site during the hours of operation, then the medical director shall be available by telecommunications and shall be able to be on-site within 30 minutes.

1. The medical director shall oversee all medical services provided at the clinic.

2. The medical director shall ensure that all qualified personnel perform the treatments or procedures for which each is assigned. The clinic shall retain documentation of proficiency and training.

3. The medical director, or his designee, is responsible for ensuring a medical referral is made to an addiction facility, when it has been determined that a patient or staff member has been diverting drugs or participating in the illegal use of drugs.

4. The medical director is responsible for ensuring a urine drug screen of each patient is obtained as part of the initial medical evaluation and intermittently, no less than quarterly, during the course of treatment for chronic pain.

5. The medical director shall ensure that patients are informed of after-hours contact and treatment procedure.

6. The medical director is responsible for applying to access and query the Louisiana Prescription Monitoring Program (PMP).

a. The PMP is to be utilized by the medical director and the pain specialist as part of a clinics' quality assurance program to ensure adherence to the treatment agreement signed by the patient.

i. The treatment agreement states that the patient has been informed that he shall only obtain and receive narcotic prescriptions from the clinic where he is being treated for chronic pain.

(a). The patient shall be subject to periodic unannounced drug screens and shall not participate in diversion of any controlled dangerous substance.

b. Compliance to this agreement is to be determined and evaluated at each subsequent visit to a clinic when the patient receives a prescription for a controlled dangerous substance.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40.2198.11-13.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:83 (January 2008).

§7833. Clinic Operations

A. A clinic shall establish and implement policies and procedures consistent with all pain management rules and regulations issued by the board.

B. A clinic shall verify the identity of each patient who is seen and treated for chronic pain management and who is prescribed a controlled dangerous substance.

C. A clinic shall establish practice standards to assure quality of care, including but not limited to, requiring that a prescription for a controlled dangerous substance may have a maximum quantity of a 30 day supply and shall not be refillable.

D. On each visit to the clinic which results in a controlled dangerous substance being prescribed to a patient, the patient shall be personally examined by a pain specialist.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40.2198.11-13.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:84 (January 2008).

Subchapter D. Facility Requirements

§7843. Facility Inspections

A. The clinic shall pass all required inspections and maintain a current file of reports and other documentation demonstrating compliance with applicable laws and

regulations. The inspections shall be signed, dated, and free of any outstanding corrective actions.

1. The following inspections are required:

- a. annual fire marshal inspection;
- b. annual inspection by the Office of Public Health;
- c. quarterly fire alarm system test by facility staff;

and

- d. regular inspections of the clinic elevators, if any.

B. A certificate of occupancy, as required by local authorities, shall be on file in the clinic.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40.2198.11-13.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:84 (January 2008).

§7845. Physical Environment

A. A clinic shall be constructed, arranged and maintained to ensure the safety and well being of the patient and the general public.

B. The clinic premises shall meet the following requirements including, but is not limited:

1. a sign maintained on the clinic premises that can be viewed by the public which shall contain, at a minimum, the:

- a. name of the clinic; and
- b. hours of operation;

2. a neat and clean general appearance of the clinic with established policies and procedures for maintaining a clean and sanitary environment on a regular basis;

3. an effective pest control program shall be maintained to ensure the clinic is free of insects and rodents;

4. proper ventilation, lighting and temperature controls in all areas of the clinic;

5. provisions for emergency lighting and communications, in the event of sudden interruptions in utilities to the clinic; and

6. clearly marked exits and exit pathways with exit signs in appropriate locations.

C. Administrative and public areas of the clinic shall include at least the following:

1. a reception area with a counter or desk, or both;

2. a waiting area with seating containing not less than two seating spaces for each examination or treatment room;

3. a conveniently located, handicapped accessible, public toilet with a lavatory for hand washing with hot and cold water;

4. a conveniently accessible public telephone;

5. a conveniently accessible drinking fountain;

6. at least one consultation room large enough to accommodate family members, in addition to treatment rooms;

7. designated rooms or areas for administrative and clerical staff to conduct business transactions, store records and carry out administrative functions, separate from public areas and treatment areas;

8. a multipurpose room for conferences, meetings, and health education purposes which may be used for the consultation room;

9. filing cabinets and storage for medical records, such records shall be protected from theft, fire, and unauthorized access and having provisions for systematic retrieval of such records;

10. adequate storage for the staff's personal effects; and

11. general storage facilities for supplies and equipment.

D. Clinical Facilities shall at least include the following.

1. General-Purpose Examination Room. Each room shall allow at least a minimum floor area of 80 square feet, excluding vestibules, toilets, and closets. Room arrangement should permit at least 2 feet 8 inches clearance at each side and at the foot of the examination table. A hand washing station and a counter or shelf space adequate for writing shall be provided.

2. Treatment Room. A room for minor surgical and cast procedures, in the event such services are provided, shall have a minimum of 120 square feet, excluding vestibules, toilets, and closets. The minimum room dimension shall be 10 feet by 12 feet. A lavatory and a counter or shelf space for writing shall be provided.

3. Medication Storage Area. All drugs and biologicals shall be kept under proper temperature controls in a locked, well illuminated, clean medicine cupboard, closet, cabinet or room.

a. Drugs and biologicals shall be accessible only to individuals authorized to administer or dispense such drugs or biologicals;

b. All controlled dangerous drugs or biologicals shall be kept separately from non-controlled drugs or biologicals in a locked cabinet or compartment;

c. Drugs or biologicals that require refrigeration shall be maintained and monitored under proper temperature controls in a separate refrigerator.

4. Clean Storage Area. A separate room or closet for storing clean and sterile supplies shall be provided.

5. Soiled Utility Room. Provisions shall be made for separate collection, storage, and disposal of soiled materials.

6. Sterilization Area. An area in the clinic shall be designated for sterilizing equipment if sterilization of supplies, equipment, utensils and solutions are performed in the clinic.

7. Housekeeping Room. A separate housekeeping room shall contain a service sink and storage for housekeeping supplies and equipment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40.2198.11-13.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:84 (January 2008).

§7847. Infection Control Requirements

A. The clinic shall have policies and procedures to address the following:

1. decontamination;
2. disinfection;
3. sterilization;
4. storage of sterile supplies;
5. disposal of biomedical and hazardous waste; and
6. training of all staff in universal precautions upon initial employment and annually thereafter.

B. The clinic shall make adequate provisions for furnishing properly sterilized supplies, equipment, utensils and solutions.

1. Some disposable supplies and equipment shall be utilized but when sterilizers and autoclaves are utilized to sterilize supplies, equipment, utensils and solutions, they shall be of the proper type and necessary capacity to adequately sterilize such implements as needed by the clinic.

2. The clinic shall have policies and procedures that address the proper use of sterilizing equipment and monitoring performed to ensure that supplies, equipment, utensils and solutions are sterile according to the manufacturers' recommendations and standards of practice.

a. Such procedures and policies shall be in writing and readily available to personnel responsible for sterilizing procedures.

3. To avoid contamination, appropriate standards of care techniques for handling sterilized and contaminated supplies and equipment shall be utilized.

C. There shall be a separate sink for cleaning instruments and disposal of non-infectious liquid waste.

D. Each clinic shall develop, implement and enforce written policies and procedures for the handling, processing, storing and transporting of clean and dirty laundry.

1. In the event a clinic provides an in-house laundry, the areas shall be designed in accordance with appropriate clinic laundry design in which a soiled laundry holding area is provided and physically separated from the clean laundry area. Dirty or contaminated laundry shall not be stored or transported through the clean laundry area.

2. In the event an in-house laundry is utilized, special cleaning and decontamination processes shall be used for contaminated linens, if any.

E. A clinic shall provide housekeeping services which assure a safe and clean environment. Housekeeping procedures shall be in writing. Housekeeping supplies shall be made available to adequately maintain the cleanliness of the clinic.

F. Garbage and biohazardous or non-biohazardous waste shall be collected, stored and disposed of in a manner which prevents the transmission of contagious diseases and to control flies, insects, and animals.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40.2198.11-13.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:85 (January 2008).

§7849. Health and Safety Requirements

A. Environmental Requirements. The clinic, including its grounds, buildings, furniture, appliances, and equipment, shall be structurally sound, in good repair, clean, and free from health and safety hazards.

1. The environment of the clinic shall enhance patient dignity and confidentiality.

2. The clinic shall prohibit weapons of any kind in the clinic or on the clinic premises.

B. Evacuation Procedures and First Aid. The clinic shall respond effectively during a fire or other emergency. Each clinic shall:

1. have an emergency evacuation procedure including provisions for the handicapped;

2. conduct fire drills at least quarterly and correct identified problems promptly;

3. be able to evacuate the building safely and in a timely manner;

4. post exit diagrams conspicuously throughout the clinic; and

5. post emergency telephone numbers by all telephones, including but not limited to the patient telephone in the waiting area.

C. A clinic shall take all precautions to protect its staff, patients and visitors from accidents of any nature.

D. The clinic shall have a written, facility-specific, disaster plan and its staff shall be knowledgeable about the plan and the location of the plan.

E. Emergency Care.

1. At least one employee on-site at each clinic shall be certified in Advanced Cardiac Life Support (ACLS) and be trained in dealing with accidents and medical emergencies until emergency medical personnel and equipment arrive at the clinic.

2. A clinic shall have first aid supplies which are visible and easy to access.

3. The following equipment and supplies shall be maintained and immediately available to provide emergency medical care for problems which may arise:

a. emergency medication, as designated by the medical director;

b. oxygen and appropriate delivery supplies, including and not limited to:

i. nasal cannula; and

ii. masks;

c. intravenous fluids; and

d. sterile dressings.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40.2198.11-13.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:85 (January 2008).

§7851. Quality Assurance

A. A clinic, with active participation of its medical staff, shall conduct an ongoing, comprehensive quality assurance (QA) program which shall be a self-assessment of the quality of care provided at the clinic. Quality indicators shall be developed to track and trend potential problematic areas. These quality indicators shall include, at a minimum, the following:

1. the medical necessity of procedures performed, complications as a result of such performed procedures, and appropriateness of care;

2. any significant adverse affects of medical treatment or medical therapy, including the number of overdoses of prescribed medications or the number of deaths resulting from such overdoses, or both;

3. the number of patients referred to other health care providers for additional treatment or to an addiction facility;

4. the number of patient or family complaints or grievances and their resolutions;

5. the number of patients the clinic refuses to continue to treat due to misuse, diversion of medications, or non-compliance with prescribed medication treatment regimen;

6. identified infection control incidents; and

7. the monitoring of patients who have been treated with prescribed narcotic pain medication for a continuous period of 12 months and longer.

B. At least quarterly, the clinic shall systematically analyze all data and develop a corrective action plan for identified problems determined through the clinic's QA process.

1. When appropriate, the clinic shall make revisions to its policies and procedures and provide written documentation that the corrective action plan has been monitored for continued sustained compliance to the appropriate standard of care.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40.2198.11-13.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:86 (January 2008).

Subchapter E. Patient Records

§7861. Patient Records

A. Retention of Patient Records

1. The clinic shall establish and maintain a medical record on each patient. The record shall be maintained to assure that the medical treatment of each patient is completely and accurately documented, records are readily available and systematically organized to facilitate the compilation and copying of such information.

a. Safeguards shall be established to maintain confidentiality and protection of the medical record from fire, water, or other sources of damage.

2. The department shall have access to all business records, patient records or other documents maintained by or on behalf of the clinic to the extent necessary to ensure compliance with this Chapter.

a. Ensuring compliance includes, but is not limited to:

i. permitting photocopying of records by the department; and

ii. providing photocopies to the department of any record or other information the department may deem necessary to determine or verify compliance with this Chapter.

3. Patient records shall be kept for a period of six years from the date a patient is last treated by the clinic. The patient records shall:

a. remain in the custody of the clinic;

b. be maintained on the premises for at least two years from the date the patient was last treated at the clinic; and

c. not be removed except under court order or subpoena.

B. Content of Medical Record

1. A medical record shall include, but is not limited to, the following data on each patient:

a. patient identification information;

b. medical and social history, including results from an inquiry to the Prescription Monitoring Program (PMP), if any;

c. physical examination;

d. chief complaint or diagnosis;

e. clinical laboratory reports, including drug screens, if any;

f. pathology report (when applicable), if any;

g. physicians orders;

h. radiological report (when applicable), if any;

i. consultation reports (when applicable), if any;

j. current medical and surgical treatment, if any;

- k. progress notes;
- l. nurses' notes of care, including progress notes and medication administration records;
- m. authorizations, consents, releases, and emergency patient or family contact number;
- o. special procedures reports, if any;
- p. an informed consent for chronic pain narcotic therapy; and
- q. an agreement signed by the patient stating that he/she:
 - i. has been informed and agrees to obtain and receive narcotic prescriptions only from the clinic where he is receiving treatment for chronic pain;
 - ii. shall be subject to quarterly, periodic, unannounced urine drug screens;
 - iii. shall not participate in diversion of any controlled dangerous substance or narcotic medications, or both;
 - iv. shall not participate in illicit drug use; and
 - v. acknowledges that non-compliance with this agreement may be a reason for the clinic's refusal to treat.

2. An individualized treatment plan shall be formulated and documented in the patient's medical record. The treatment plan shall be in accordance with the board's pain rules and shall include, but is not limited to, the following:

- a. medical justification for chronic pain narcotic therapy;
- b. documentation of other medically reasonable alternative treatment for relief of the patient's pain have been considered or attempted without adequate or reasonable success; and
- c. the intended prognosis of chronic pain narcotic therapy which shall be specific to the individual medical needs of the patient.

3. Signatures. Clinical entries shall be signed by a physician, as appropriate, i.e., attending physician, consulting physician, anesthesiologist, pathologist, etc. Nursing progress notes and assessments shall be signed by the nurse.

4. Nurses' Notes. All pertinent assessments, treatments and medications given to the patient shall be recorded in the nurses' progress notes. All other notes, relative to specific instructions from the physician, shall also be recorded.

5. Completion of the medical record shall be the responsibility of the patient's physician.

C. Provided the regulations herein are met, nothing in this Section shall prohibit the use of automated or centralized computer systems, or any other electronic or non-electronic techniques used for the storage of patient medical records.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2198.11-13.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:86 (January 2008).

Roxane A. Townsend, M.D.
Secretary

0801#085

RULE
Department of Health and Hospitals
Office of the Secretary
Bureau of Health Services Financing

Pharmacy Benefits Management Program—Dispensing Fee
(LAC 50:XXIX.Chapter 9)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing has amended LAC 50:XXIX.Chapter 9 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part XXIX. Pharmacy

Chapter 9. Methods of Payment

Subchapter A. General Provisions

§901. Definitions

* * *

Dispensing Fee—the charge to Medicaid for the professional services provided by a pharmacist when dispensing a prescription. It is inclusive of the provider fee assessed for each prescription filled in the state of Louisiana or shipped into the state of Louisiana as mandated by R.S. 46:2605.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 32:1061 (June 2006), amended LR 34:87 (January 2008).

Subchapter B. Dispensing Fee

§915. Cost Determination

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:153 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 32:1062 (June 2006), repealed LR 34:87 (January 2008).

§917. Maximum Allowable Overhead Cost Calculation

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:153 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 32:1062 (June 2006), repealed LR 34:87 (January 2008).

§919. Parameters and Limitations

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:153 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 32:1063 (June 2006), repealed LR 34:87 (January 2008).

§921. Interim Adjustment to Overhead Cost

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:153 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 32:1063 (June 2006), repealed LR 34:88 (January 2008).

§923. Cost Survey

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:153 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 32:1063 (June 2006), repealed LR 34:88 (January 2008).

§925. Dispensing Fee

A. The dispensing fee for drugs with a Federal Upper Limit will be \$10.10 per prescription. This includes the provider fee assessed for each prescription filled in the state or shipped into the state, as mandated by R.S. 46:2605.

- 1. Repealed.
- 2. Repealed.

B. The dispensing fee for other drugs not subject to a Federal Upper Limit will be \$10.10 per prescription. This includes the provider fee assessed for each prescription filled in the state or shipped into the state.

C. The dispensing fee for drugs obtained through the Public Health Service 340B Program will be \$10.10 per prescription. This includes the provider fee assessed for each prescription filled in the state or shipped into the state.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:153 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 32:1064 (June 2006), amended LR 34:88 (January 2008).

Subchapter C. Average Wholesale Price

§935. Estimated Acquisition Cost Formula

A. - B.1.c. ...

2. Louisiana's maximum allowable cost limitation plus the dispensing fee;

3. federal upper limits plus the dispensing fee; or

4. - 4.c. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 32:1064 (June 2006), amended LR 34:88 (January 2008).

Subchapter D. Maximum Allowable Costs

§945. Reimbursement Methodology

A. ...

1. The maximum payment by the agency for a prescription shall be no more than the cost of the drug ingredient established by the state plus the established dispensing fee.

2. Each pharmacy's records shall establish that the dispensing fee paid by the Medical Assistance Program for a prescription does not exceed the dispensing fee paid by the general public.

3. Payment for insulin and diabetic supplies may not exceed 50 percent of the wholesale price shown in the pharmacy's purchasing records.

B. - F. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 32:1064 (June 2006), amended LR 34:88 (January 2008).

§949. Cost Limits

A. - A.1.a. ...

b. At least two suppliers list the drug [which has been classified by the FDA as category "A" in the aforementioned publication based on listings contained in current editions (or updates) of published compendia of cost information for drugs available for sale nationally].

2. ...

3. The Medical Assistance Program shall provide pharmacists who participate in Title XIX reimbursement with updated lists on the Medicaid website:

A.3.a. - B.1. ...

2. The agency shall make determinations of which multiple source drugs are to be subject to LMAR regulation based on the availability of drugs in the Louisiana Medical Assistance Program. The availability of a drug product will be determined by review of provider claim data.

B.3. - D. ...

1. Limits on payments for multiple source drugs shall not be applicable when the prescriber certifies in his own handwriting that a specified brand name drug is medically necessary for the care and treatment of a recipient. Such certification may be written directly on the prescription or on a separate sheet which is attached to the prescription. A standard phrase in the prescriber's handwriting, such as "brand necessary" or "brand medically necessary" will be acceptable.

D.2. - E.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 32:1065 (June 2006), amended LR 34:88 (January 2008).

Subchapter E. 340B Program

§963. Reimbursement

A. - B. ...

C. Dispensing Fees. The covered entity shall be paid a dispensing fee of \$10.10 for each prescription dispensed to a Medicaid patient. With respect to contract pharmacy arrangements in which the contract pharmacy also serves as the covered entity's billing agent, the contract pharmacy shall be paid the \$10.10 dispensing fee on behalf of the covered entity.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 32:1066 (June 2006), amended LR 34:88 (January 2008).

Implementation of the provisions of this proposed Rule shall be contingent upon the implementation of the Federal Upper Limits (FUL) in accordance with Section 6001 of the Deficit Reduction Act of 2005 and approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services.

Roxane A. Townsend, M.D.
Secretary

0801#086

RULE

Department of Health and Hospitals Office of the Secretary Bureau of Primary Care and Rural Health

Primary Service Areas of Rural Hospitals
(LAC 48:I.15901-15903)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Primary Care and Rural Health, adopts LAC 48:I.15901-15903 as authorized by R.S. 37:1306-1310. This Rule is promulgated in accordance with Act 819.

Title 48

PUBLIC HEALTH—GENERAL

Part I. Public Health Services

Subpart 5. Primary Health Care Services

Chapter 159. Introduction

§15901. Definitions

A. Act 819 (the Act) defines *primary service area* of a rural hospital as the smaller of either a radius of 25 miles from the rural hospital main campus or the number of postal zip codes, commencing with the rural hospital's zip code, in which 75 percent of a rural hospital's patients reside, as determined by using data derived from the hospital's most recent 12 month Medicare cost reporting period. In determining the primary service area, each outpatient encounter and each inpatient stay shall be viewed as a separate patient, and the zip code attributable to the patient shall be the zip code of the patient at the time of the inpatient stay or outpatient encounter. The term *primary service area* does not include the cities of Alexandria, Baton Rouge, Bossier City, Covington, Hammond, Houma, Kenner, Lafayette, Lake Charles, Mandeville, Monroe, New Iberia, New Orleans, Opelousas, Ponchatoula, Ruston, Shreveport, Slidell, Thibodaux, or West Monroe.

B. *Rural hospital* shall be defined as provided for in R.S.40:1300.143, as such law existed on April 1, 2006.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1306-1310.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Primary Care and Rural Health, LR 34:89 (January 2008).

§15902. Determination of Primary Service Area

A. Geographic Determination. As of July 6 2007, Louisiana has 51 rural hospitals. The 25 miles radius of each rural hospital has been identified by geocoding the zip code of each rural hospital and the 25 miles radius surrounding

each of these hospitals. A map depicting the 25 miles radius surrounding each rural hospital is located at www.dhh.la.gov. In accordance with the Act, the Bureau of Primary Care and Rural Health will update the list of Louisiana's rural hospitals and their 25 mile radius annually and provide these updates on www.dhh.la.gov.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1306-1310.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Primary Care and Rural Health, LR 34:89 (January 2008).

§15903. Determining the Smaller of the Two Primary Service Area Definitions

A. The Department of Health and Hospitals proposes the following process to determine if the hospital's primary service area is the smaller of either the 25 miles radius of the rural hospital or the number of postal zip codes, commencing with the rural hospital's zip code, in which 75 percent of a rural hospital's patients reside, as determined by using data derived from the hospital's most recent 12 month Medicare cost reporting period.

1. *Primary service area* will be defined as the 25 mile radius of the rural hospital unless a formal request is made in writing to the Department of Health and Hospital's Bureau of Primary Care and Rural Health for a determination on the smaller of the two primary service area definitions. The request must include the legal name and address of the entity requesting the determination, the name and address of the rural hospital impacted by the request and the type of healthcare facility that seeks to locate in the service area of the rural hospital. Requests for this primary service area determination will be sent to DHH-Bureau of Primary Care and Rural Health.

2. Within 30 days of receipt of the written request for a primary service area determination, the Bureau of Primary Care and Rural Health will request cost report data with service area zip codes from the rural hospital identified in the request. Cost report data will be required to be submitted to the Bureau of Primary Care and Rural Health within 30 days of the bureau's request.

3. Within 30 days of receipt of this cost report data, the Bureau of Primary Care and Rural Health will geocode and map the zip codes of the cost report data to assess the primary service area of the rural hospital. The results of this analysis will be provided to the party issuing the request for the primary service area determination and the rural hospital impacted by the request.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1306-1310.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Primary Care and Rural Health, LR 34:89 (January 2008).

Roxane A. Townsend, M.D.
Secretary

0801#026

RULE

Department of Insurance Office of the Commissioner

Regulation 94—Premium Adjustments for Compliance with Building Codes and Damage Mitigation (LAC 37:XIII.Chapter 127)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and through the authority granted under R.S. 22:1 et seq., and R.S. 22:1426, that the Commissioner of Insurance has adopted Regulation 94 to implement the provisions of Acts 2007, No. 323 of the Regular Session of the Louisiana Legislature, which mandates that insurers provide a premium discount for insureds who build or retrofit a structure to comply with the State Uniform Construction Code and/or install mitigation improvements or retrofit their property utilizing construction techniques demonstrated to reduce the amount of loss from a windstorm or hurricane.

Title 37 INSURANCE

Part XIII. Regulations

Chapter 127. Regulation Number 94—Premium Adjustments for Compliance with Building Codes and Damage Mitigation

§12701. Authority

A. Regulation 94 is issued pursuant to the authority vested in the commissioner pursuant to the provisions of R.S. 49:953 et seq., of the Administrative Procedure Act; R.S. 22:3 and R.S. 22:1426.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3 to enforce the provisions of R.S. 22:1426.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 34:90 (January 2008).

§12703. Purpose

A. The purpose of Regulation 94 is to implement the provisions of Acts 2007, No. 323 of the Regular Session of the Louisiana Legislature, which mandates that insurers provide an actuarially justified premium discount for insureds who build or retrofit a structure to comply with the State Uniform Construction Code and/or install mitigation improvements or retrofit their property utilizing construction techniques demonstrated to reduce the amount of loss from a windstorm or hurricane.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3 to enforce the provisions of R.S. 22:1426.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 34:90 (January 2008).

§12705. Scope and Applicability

A. Regulation 94 applies to authorized property and casualty insurers required to submit rates and rating plans for residential property insurance to the Louisiana Department of Insurance.

B. Regulation 94 does apply to modular homes.

C. Regulation 94 does not apply to commercial properties or commercial residential properties with three or more units.

D. Regulation 94 does not apply to approved unauthorized insurers, i.e., surplus lines.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3 to enforce the provisions of R.S. 22:1426.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 34:90 (January 2008).

§12707. Definitions

A. As used in Regulation 94, these terms shall have the following meaning ascribed herein unless the context clearly indicates otherwise.

Certification Form—a form prepared by an insurer, approved by the department, and subsequently completed and signed by the insured, wherein the insured attests to the implementation of specific mitigation items which the insurer recognizes in its rating plan for providing an actuarially justified premium discount under R.S. 22:1426.

Department—Louisiana Department of Insurance.

Discount Plan—the criteria and items utilized by an insurer to determine or otherwise compute an actuarially justified discount, credit, rate differential, adjustment in deductible, or any other adjustment to reduce the insurance premium for an eligible insured under R.S. 22:1426.

Qualified Professional—a building code enforcement officer, registered architect, registered engineer, or a registered third-party provider authorized by the Louisiana State Uniform Construction Code Council to perform building inspections.

Residential Property Insurance—fire and extended coverage insurance or homeowners insurance for a one- or two-family owner-occupied premises, but does not include insurance policies written to cover manufactured homes or mobile homes.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3 to enforce the provisions of R.S. 22:1426.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 34:90 (January 2008).

§12709. Rate Filings

A. All residential property insurers shall include their plan for actuarially justified discounts in their first rate filing made with the department after March 31, 2008. Every residential property insurer shall make a new rate filing with the department in accordance with R.S. 22:1426 on or before January 1, 2009.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3 to enforce the provisions of R.S. 22:1426.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 34:90 (January 2008).

§12711. Discount Plan Standards

A. A discount plan submitted to the department should consider wind mitigation studies conducted by other states and may consider other alternative studies found acceptable by the department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3 to enforce the provisions of R.S. 22:1426.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 34:90 (January 2008).

§12713. Mitigation Improvements and Construction

Considered for Actuarially Justified Discounts

A. In determining actuarially justified discounts, an insurer shall consider the following mitigation improvements and/or construction techniques that have been demonstrated to reduce the amount of loss from windstorm or hurricane:

1. building design code;
2. roof bracing;
3. secondary water barriers;
4. opening protection;

5. roof to wall strength;
6. roof deck attachment;
7. roof covering and roof covering performance;
8. wall-to-floor-to-foundation strength;
9. window, door, and skylight strength; and
10. other mitigation improvements and/or construction techniques that the insurer has determined can reduce the risk of loss due to wind.

B. Discounts displayed in the insurer's rate and rule manual should reflect the interdependence of mitigation improvements and/or construction techniques required by the insurer to qualify for an actuarially justified discount.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3 to enforce the provisions of R.S. 22:1426.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 34:90 (January 2008).

§12715. Form Filing; Notice to Insureds

A. The Model Certification Form in §12721, Appendix A provides the minimum mitigation items and construction techniques that must be considered for actuarially justified discounts.

B. Any insurer that intends to supplement the Model Certification Form with additional mitigation items and construction techniques for actuarially justified discounts shall submit the supplemented certification form to the department for approval prior to use.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3 to enforce the provisions of R.S. 22:1426.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 34:91 (January 2008).

§12717. Proof of Eligibility

A. The insured has the obligation to provide the insurer with the appropriate documentation to verify eligibility for an actuarially justified discount under the provisions of R.S. 22:1426 and Regulation 94. The insurer may require that the insured provide the insurer with the following:

1. a properly completed certification form that is executed by a qualified professional and that meets the minimum standards of the Model Certification Form in §12721, Appendix A to Regulation 94; and
2. appropriate documentation demonstrating compliance with the State Uniform Construction Code; and/or
3. appropriate documentation attesting to the mitigation improvements made by the insured that reduce the amount of loss from a windstorm or hurricane.

B. An insurer may require the following or other documentation to satisfy the requirements of Paragraphs A.2 and A.3:

1. permits;
2. certificates of occupancy;
3. inspection reports; or
4. receipts.

C. The insurer may request additional documentation or proof from an insured, or an inspection of the property, if the insurer has a justifiable basis to question the authenticity or accuracy of any of the information or documentation provided by the insured.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3 to enforce the provisions of R.S. 22:1426.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 34:91 (January 2008).

§12719. Notice to Producers; Information for Insureds

A. In furtherance of Regulation 94, each insurer shall be responsible to ensure that its producers and authorized representatives are knowledgeable and prepared to properly inform insureds about the actuarially justified discounts available for insureds who build or retrofit a structure to comply with the State Uniform Construction Code and/or install mitigation improvements or retrofit their property utilizing construction techniques demonstrated to reduce the amount of loss from a windstorm or hurricane.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3 to enforce the provisions of R.S. 22:1426.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 34:91 (January 2008).

§12721. Appendix A—Louisiana Hurricane Loss Mitigation Survey Form

Louisiana Hurricane Loss Mitigation Survey Form

Instructions: The homeowner/policyholder shall complete Section I. A qualified inspector shall complete Section II and sign Section III.

Section I: Insured Information

Applicant's/Insured's Name

Location Address* _____

Applicant's / Insured's phone number
() _____

Home or Business Phone Indicator – H or B

To be completed by Insurer: Insurer: _____ Policy Number: _____ Policy type: _____ Agent: _____

The inspection shall be conducted on each occupiable dwelling on the policy. This survey form does not pertain to accessory structures such as detached garages, storage sheds, barns, etc. Please circle the appropriate answer to each question.

Section II: Inspection Survey

- 1) **BUILDING CODE: To what building or residential code was the dwelling constructed?**
 - A) Louisiana State Uniform Construction Code
 - B) Certified by IBHS as a Fortified for Safer Living structure and built above the requirements of the Louisiana State Uniform Construction Code
 - C) Neither of the above; built to another code (specify) _____
 - D) Unknown, unidentified, or no code
- 2) **BASIC DESIGN WIND SPEED: What was the Basic Design Wind Speed used to design and construct the dwelling?**
(if in fastest mile speed, convert to 3-second gust)
 - A) Less than or equal to 90-mph (3-second gust)
 - B) Greater than 90-mph and less than or equal to 100-mph (3-second gust)
 - C) Greater than 100-mph and less than or equal to 110-mph (3-second gust)
 - D) Greater than 110-mph and less than or equal to 120-mph (3-second gust)
 - E) Greater than 120-mph and less than or equal to 130-mph (3-second gust)
 - F) Greater than 130-mph and less than or equal to 140-mph (3-second gust)
 - G) Greater than 140-mph and less than or equal to 150-mph (3-second gust)
 - H) Greater than or equal to 150-mph (3-second gust)
 - I) Unknown, unidentified, or no Basic Wind Speed
- 3) **EXPOSURE CATEGORY: What Exposure Category was used to design and construct the dwelling? (as defined by ASCE 7)**
 - A
 - B
 - C
 - D
 - Unknown, unidentified, or no Exposure Category

- 4) **SECONDARY ROOF WATER INTRUSION SYSTEM: Is there a complete secondary roof water intrusion system installed over all dwelling roof areas?**
 Y) Yes, on all roof areas
 N) No
 U) Unknown or Unidentified
- 5) **EXTENT OF WIND BORNE DEBRIS PROTECTION: To what extent do the building envelope openings have wind borne debris protection - either protected with external protection devices or deemed impact-resistant through building code approved impact testing?**
(Building envelope openings include, but are not limited to: windows, swinging doors, sliding doors, garage doors, skylights, and door sidelights.)
 A) All Openings—All building envelope openings with and without glass/glazing, including garage doors (if garage doors exist on dwelling or if no garage door exists on dwelling), have wind borne debris protection.
 B) All Openings (except garage doors)—All building envelope openings with and without glass / glazing, excluding garage doors (if garage doors exist on dwelling), have wind borne debris protection.
 C) All Glass/Glazed Openings and Some Openings without Glazing—All building envelope openings with glass/glazing and some building openings without glass/glazing, excluding garage doors, have wind borne debris protection.
 D) Only Glass/Glazed Openings—All building envelope openings with glass / glazing have wind borne debris protection.
 E) Some Glass/Glazed Openings—Some building envelope openings with glass / glazing have wind borne debris protection, but not all.
 F) No wind borne debris protection is provided on any glass/glazed building envelope openings.
 U) Unknown or unidentified
- 6) **TYPE OF WIND BORNE DEBRIS PROTECTION: What is the weakest form of wind borne debris protection used on the structure? (listed in descending order from strongest to weakest)**
 A) Building envelope opening products:
 Have passed the following cyclic loading and windborne debris impact tests – [ASTM E 1886 and ASTM E 1996 (Missiles D or E)] or [Miami-Dade TAS 201 and TAS 203] or [ANSI/DASMA 115 for garage doors only]; and are approved by and included in the State of Florida Product Approval System or the Miami-Dade Code Compliance Office Product Approval System; or
 Are protected with an external protection device that has passed the following cyclic loading and windborne debris impact tests – [ASTM E 1886 and ASTM E 1996 (Missiles D or E)] or [Miami-Dade TAS 201 and TAS 203]; and are approved by and included in the State of Florida Product Approval System or the Miami-Dade Code Compliance Office Product Approval System.
 B) External protection devices that cannot be identified as meeting the requirements in Answer A.
 C) Wood structural panels (plywood or OSB)
 U) Unknown or unidentified
 X) Not applicable because there is no wind borne debris protection.
- 7) **ROOF GEOMETRY: What is the roof shape(s)? (Porches or carports that are not structurally connected to the main roof system are not considered in the roof geometry determination)**
 A) Total Hip Roof Hip roof covering entire structure
 B) Partial Hip Roof Hip roof with no other roof shapes greater than 50% of any major wall length
 O) Other Any other roof shape or combination of roof shapes including hip, gable, flat, gambrel, mansard, and other roof shapes
- 8) **ROOF COVERING SYSTEM: If predominant roof covering on the dwelling is asphalt shingles, have the asphalt shingles passed either ASTM D3161 (Class F) or ASTM D7158 (Class G or H)?**
 Y) Yes
 N) No
 U) Unknown or unidentified
 X) Not applicable because predominant roof covering is not asphalt shingles

- 9) **AGE OF ROOF COVERING: In what year was the roof covering installed?**
 A) _____ (YYYY)
 U) Unknown
- 10) **PREDOMINANT ROOF DECK MATERIAL & ATTACHMENT: What are the predominant roof deck material and its attachment to the dwelling structure below?**
 Type of Roof Deck: _____
 Size and Type of Fastener: _____
 Spacing of Fasteners: _____
- 11) **ROOF-WALL CONNECTION TYPE: What is the weakest form of Roof-Wall Connector used on the dwelling? (listed in descending order from strongest to weakest)**
 A) Double Wraps
 B) Single Wraps
 C) Clips
 D) Toenails
 E) None
 X) Not applicable as roof deck is metal roof deck (pan type), precast concrete panels, or poured-in-place concrete
 U) Unknown or Unidentified
- 12) **GABLE ROOF BRACING: Are the gable roof structure bracing members and system designed and installed in accordance to the Louisiana State Uniform Construction Code?**
 Y) Yes
 N) No
 X) Does not apply because there are no gable or gambrel roof shapes
 U) Unknown or Unidentified
- 13) **FOUNDATION RESTRAINT: Are the floor-to-foundation connections designed and installed in accordance to the Louisiana State Uniform Construction Code?**
 Y) Yes
 N) No
 U) Unknown or Unidentified

Section III - To be completed by a Qualified Professional as specified below:

I certify that I am a Building Code Enforcement Officer, or a Third-Party Provider, as defined by Louisiana Revised Statute or applicable Administrative Rule. I am registered with the Louisiana State Uniform Construction Code Council and authorized, by that registry, to perform residential building inspections for compliance with the Louisiana State Uniform Construction Code. I have conducted an inspection of the structure, and reviewed all construction documents and building product specifications necessary to accurately answer the questions in this inspection survey, and certify that, to the best of my knowledge, all questions are answered truthfully and correctly.

Name (please print): _____
 Firm name: _____
 Title (vendor, owner, officer, or partner): _____
 State of Louisiana license number: _____
 Signature: _____ Date _____
 Insureds' Signatures: _____ Date _____
 _____ Date _____

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3 to enforce the provisions of R.S. 22:1426.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 34:91 (January 2008).

§12723. Severability

A. If any Section or provision of this regulation or the application to any person or circumstance is held invalid, such invalidity or determination shall not affect other Sections or provisions or the application of this regulation to any persons or circumstances that can be given effect without the invalid Section or provision or application, and for these purposes the Sections and provisions of this regulation and the application to any persons or circumstances are severable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3 to enforce the provisions of R.S. 22:1426.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 34:92 (January 2008).

§12725. Effective Date

A. This regulation shall become effective upon final publication in the Louisiana Register. This regulation shall apply to all newly filed rates filed after March 31, 2008.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3 to enforce the provisions of R.S. 22:1426.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 34:93 (January 2008).

James J. Donelon
Commissioner

0801#065

RULE

**Department of Public Safety and Corrections
Office of Management and Finance
Uniform Construction Code Council**

State Uniform Construction Code
(LAC 55:VI.101, 301, 703 and 905)

In accordance with the provisions of Act 12 of the 2005 First Extraordinary Session, R.S. 40:1730:22(C) and (D), R.S. 40:1730.34(B), R.S. 40:1730.37 and R.S. 40:1730.38 relative to the authority of the Louisiana State Uniform Construction Code Council to promulgate and enforce rules, the Louisiana State Uniform Construction Code Council hereby amends Rules under §101.A, to change the mailing address for the Uniform Construction Code Council; under §301.A.3, extends the date of the use of the 2003 windzones; allows local jurisdictions to adopt Appendix J of the Residential Code, under §703.B, amends the definition of third party providers in adding homeowners to the list of those people who can contract with third party providers; under §905, allows architects and engineers to register as third party providers after January 1, 2008.

Title 55

PUBLIC SAFETY

Part VI. Uniform Construction Code

Chapter 1. Preliminary Provisions

§101. Request for Rule Change

A. Anyone petitioning the Undersecretary, Department of Public Safety, for the adoption of, or change of, any rule shall submit in writing to the Council Administrator at 7979 Independence Boulevard, Suite 106, Baton Rouge, LA 70806, an application containing the following basic information organized and captioned:

A.1. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1730.22(C) and (D).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Uniform Construction Code Council, LR 33:290 (February 2007), amended LR 34:93 (January 2008).

Chapter 3. Adoption of the Louisiana State Uniform Construction Code

§301. Louisiana State Uniform Construction Code

A. - A.2. ...

3. International Residential Code, 2006 Edition, not including Parts I-Administrative, V-Mechanical, VII-Plumbing and VIII-Electrical. The applicable standards referenced in that code are included for regulation of construction within this state. The enforcement of such

standards shall be mandatory only with respect to new construction, reconstruction, additions to homes previously built to the International Residential Code, and extensive alterations. Appendix J, Existing Buildings and Structures, may be adopted and enforced only at the option of a parish, municipality, or regional planning commission. For purposes of this Part, Section R301.2.1.1 of the 2003 edition of the International Residential Code is hereby specifically adopted in lieu of the 2006 edition and shall remain in effect until the 2009 edition of the International Residential Code is published. Part IV-Energy Conservation of the latest edition of the International Residential Code is hereby amended to require that supply and return ducts be insulated to a minimum of R-6. Furthermore, IRC R301.2.1.1 (Design Criteria) shall be amended as follows and shall only apply to the International Residential Code:

- a. amendment of R301.2.1.1 (Design Criteria);
- b. Item 6, the American Concrete Institute, *Guide to Concrete Masonry Residential Construction in High Winds Areas*, shall be added;
- c. Item 7, Institute for Business & Home Safety, *Optional Code-plus Fortified for Safer Living*, shall be added;
- d. Item 8, Federal Alliance for Safe Homes, *Optional Code-plus Blueprint for Safety*, shall be added.

4. - 7. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1730.22(C) and (D) and 40:1730.26(1).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Uniform Construction Code Council, LR 33:291 (February 2007), amended LR 34:93 (January 2008).

**Chapter 7. Certificates of Registration
§703. Classifications and Required Certifications for Municipal or Parish Building Code Enforcement Officers**

- A. - A.1. ...
- B. Definitions

Third-Party Provider (TPP)—any individual, entity, or an individual employed by an entity, contracted to act in the capacity of a BCEO by an authority having jurisdiction, a licensed contractor, or a homeowner who is exempted from the contractor licensing law under R.S. 37:2170.

C. - C.2.c.v. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1730.34(B).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Uniform Construction Code Council, LR 33:292 (February 2007), amended LR 34:93 (January 2008).

Chapter 9. Temporary Exemption to Certification Requirement

§905. Third Party Providers

A. Third party providers who are Louisiana licensed architects or engineers and who obtain a certificate of registration after January 1, 2007, shall be granted a provisional certificate of registration without certification by a recognized code organization. This provisional certificate shall expire on December 31, 2007. However, beginning January 1, 2008, upon application and fulfillment of all other requirements necessary to obtain a certificate of registration, a third-party provider who is a Louisiana licensed architect

or engineer shall be granted a certificate of registration without certification by a recognized code organization for their specialty work only.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1730.22(C) and (D).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Uniform Construction Code Council, LR 34:93 (January 2008).

Jill Boudreaux
Acting Undersecretary

0801#041

RULE

**Department of Public Safety and Corrections
Office of State Police**

User Fees for Louisiana State Police Facility (LAC 55:I.301)

Under the authority of the State Police Law, R.S. 40:1375(F), and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Office of State Police hereby amends Section 301 under Chapter 3 to amend the user fees at LSP Training facilities and to add a fee schedule for new facilities.

Title 55

PUBLIC SAFETY

Part I. State Police

Chapter 3. Training and Education

§301. User Fees for Louisiana State Police Facility

A. The Louisiana State Police announces maximum user fees for its training facilities pursuant to R.S. 40:1375(F) according to the following schedule.

Louisiana State Police Training Facility Rates	
Academy Dorm Room Single Occupancy	\$33 per day
VIP Dorm Room Single Occupancy	\$44 per day
Large Flat Classroom Seating for 50	\$220 per day
Large Tiered Classroom Seating for 50	\$220 per day
Small Flat Classroom Seating for 25-40	\$165 per day
Classroom AV Package	\$100 per day
Defensive Tactics Room Training for 75	\$330 per day
Gymnasium/Track Training for 250	\$550 per day
Training Tank Pool Training for 50	\$550 per day
Auditorium Seating for 250	\$550 per day
Computer Lab Seating for 25	\$500 per day
Conference Room w/TV Seating for 15	\$165 per day
Pistol Ranges Training for 25-50	\$550 per 8 hr day
Range Classrooms Training for 25-50	\$220 per 8 hr day
	\$30 per hour over 8
Single Level Shoothouse	\$550 per 8 hr day
	\$330 per 4 hr day
	\$55 per hour over 8
Bi-Level Shoothouse	\$660 per 8 hr day
	\$385 per 4 hr day
	\$82 per hour over 8
Rifle Range Training for 17	\$550 per day
Bomb Ranges	\$550 per day
Explosives Classrooms	\$220 per day
Explosives Breaching House #1 (Mechanical)	\$330 per day
Explosives Breaching House #2 (Advanced)	\$550 per day
Breach House Classroom	\$175 per day
Device Assembly Building	\$200 per day
Target Shoothouse Bi-level	\$385 per day
Shooting Simulator	\$220 per day

Louisiana State Police Training Facility Rates	
Post Blast Investigation Building #1	\$275 per day
Post Blast Investigation Building #2	\$275 per day
Post Blast Investigation Building #3	\$220 per day
Storage Building (1600sf)	\$200 per day
Storage Trailer (A/C)	\$64 per day
JESTC Grounds (Terrain only)	\$1,500 per day
Driving Track (Site only)	\$1,320 per day
Complete EVOG facility	\$10,000 per week
Driving Track (Site w/staff)	\$2,300 per day
	\$15,000 per week
Driving Course (Instructors)	\$525 per person per 80 hr class
Driving Course (Defensive Driving)	\$135 per person per 8 hr class
	\$245 per person per 16 hr class
Driving Course (Teen/Civilian)	\$135 per person per 8 hr class
Driving Course (In-Service)	\$425 per person per 40 hr class
Driving Skills Pad/Pan	\$550 per day
Police Training Vehicle	\$100 per day
Driving Simulator	\$220 per day
Driving Track Classroom(s)	\$220 per day
Driving Track Office	\$70 per day
	\$300 per week
Conference Center Projector	\$110 per day
Conference Center TV	\$50 per day
Conference Center TV w/ VCR	\$80 per day
Conference Center Lectern	\$30 per day
Conference Center Laptop Computer	\$110 per day
Conference Center AV Package	\$100 per day
Conference Center Offices	\$70 per day
	\$300 per week
Conference Center Meeting Room Seating for 60	\$550 per day
Conference Center Breakout Room Seating for 30	\$330 per day
Conference Center Breakout Room Seating for 15	\$220 per day
Seating for 15	\$350 per day
Conference Center Lounge	\$350 per day
Conference Center Dining Room	\$550 per day
Conference Center Patio	\$200 per day
Conference Center Lodge Rooms	
Lodges 3-6	\$50 single/\$80 double (GOVT)
	\$60 single/\$90 double (COMM)
VIP Lodge Rooms	\$80 single/\$110 double
Holden Classroom	\$220 per day
Holden Facility Grounds	\$3,300 per day
Holden Cabins	\$33 per day
Applied Technology Labs	\$110 per day
	\$3-825 per day depending on service
Video Production Services	
Walker Firearms Range	\$550 per day

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1375 (F)

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 12:116 (February 1986), amended LR 26:95 (January 2000), LR 26:2626 (November 2000), LR 34:94 (January 2008).

Jill P. Boudreaux
Acting Undersecretary

0802#048

RULE
Department of Social Services
Office of Family Support

Louisiana Pathways Child Care Career Development System
(LAC 67:III.5125 and 5127)

In accordance with R.S. 36:474 and R.S. 47:6103, which allows the department to make reasonable rules and regulations, the Secretary of the Department of Social Services adopted LAC 67:III, Subpart 12, Chapter 51, Subchapter D, Louisiana Pathways Child Care Career Development System (LA Pathways).

The purpose of this regulation is to give the LA Pathways Child Care Career Development System the authority to act as the state practitioner registry that is maintained by the Department of Social Services. LA Pathways offers a formal mechanism to track training and educational attainment for staff in the field of early child care and education.

This procedure will be employed for the administration of the school readiness tax credits and the documentation that will be required to claim one of the school readiness tax credits as set out in R.S. 47:6101 through 6109 as enacted by Act 394 of the 2007 Regular Session of the Louisiana Legislature.

Title 67
SOCIAL SERVICES

Part III. Office of Family Support
Subpart 12. Child Care Assistance

Chapter 51. Child Care Assistance Program
Subchapter D. Louisiana Pathways Child Care Career Development System (LA Pathways)

§5125. Authority

A. The Louisiana Pathways Child Care Career Development System (LA Pathways) is the state practitioner registry maintained by the Department of Social Services. LA Pathways offers child care staff, including directors, teachers, assistant teachers and other classroom staff, a formal mechanism to track their training and educational attainment, experience and professional affiliation in the field of early care and education.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Part 98 and R.S. 36:474 and R.S. 47:6101 et seq.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 34:95 (January 2008).

§5127. Participation in LA Pathways

A. Any individual working or planning to work in the child care industry is eligible to enroll in LA Pathways by completing an application and forwarding the required documents. An application for enrollment and information about enrollment is available at <http://pathways.louisiana.gov/> or by phoning the Division of Child Care and Early Childhood Education at (225) 342-0694.

1. LA Pathways will register child care directors and staff according to requirements based on training and education, experience and professional activities, as approved by the Department of Social Services. Participation is voluntary.

B. Requirement for the Administrator Track for LA Pathways.

Child Care Career Ladder Titles	Training and Education Requirements	Experience Requirements	Professional Activity Requirements
Assistant Director I	Annual training as required by Licensing Minimum Standard	None	Encouraged to participate in an early childhood professional organization
Assistant Director II	60 clock hours in approved core knowledge (CDA) subject areas including 6 hours in regulations	Minimum 6 months	Encouraged to participate in an early childhood professional organization
Assistant Director III	90 clock hours in approved core knowledge (CDA) subject areas including 15 hours in approved Administrative Training Categories	Minimum 1 year	Encouraged to participate in an early childhood professional organization
Director	As required by Licensing Minimum Standards	As required by licensing	Encouraged to participate in an early childhood professional organization
Director I	CDA Credential or approved early childhood diploma and 30 clock hrs. in approved Administrative Training Categories or related associate degree or 30 hours toward associate degree with 4 college courses in early childhood or child development	Minimum 1 year	Membership in an early childhood professional organization.
Director II	CDA Credential or approved early childhood diploma and 45 clock hrs. in approved Administrative Training Categories or National Administrative Credential or associate degree in early childhood or child development or related associate degree with 4 college courses in early childhood or child development or related bachelor degree with 3 college courses in early childhood or child development	Minimum 18 months	Membership in an early childhood professional organization and service to the profession such as: serving on a board or committee, presenting at a conference, participating as a CDA advisor or mentor, attendance at a conference or professional event

B. Requirement for the Administrator Track for LA Pathways.

Child Care Career Ladder Titles	Training and Education Requirements	Experience Requirements	Professional Activity Requirements
Director III Administrator Certificate To receive an Administrator Certificate you must have 75 clock hours of instruction in approved Administrative Training Categories 2 college courses in approved administration can be substituted for the Administrator Certificate	CDA Credential or approved early childhood diploma and Administrator Certificate or associate degree in child development or early childhood and Administrator Certificate or bachelor degree in early childhood or child development of which 3 college courses focus on infants and toddlers and Administrator Certificate or related bachelor degree with 6 college courses in early childhood or child development of which 3 courses focus on infants and toddlers and Administrator Certificate	Minimum 2 years	Membership in an early childhood professional organization and service to the profession such as: serving on a board or committee, presenting at a conference, participating as a CDA mentor or advisor, attendance at a conference or professional event
Level VIII Director IV	Master's degree in early childhood, child development or early childhood administration of which 3 courses focus on infants and toddlers and Administrator Certificate or related masters degree with 8 college courses in early childhood or child development of which 3 courses focus on infants and toddlers and Administrator Certificate	Minimum 2 years	Membership in an early childhood professional organization and service to the profession such as: serving on a board or committee, presenting at a conference, participating as a CDA mentor or advisor, attendance at a conference or professional event

C. Requirements for the Classroom Track for LA Pathways.

Child Care Career Ladder Titles	Training and Education Requirements	Experience Requirements	Professional Activity Requirements
Child Care Staff I	As required by licensing regulations	None	Encouraged to participate in an early childhood professional organization
Child Care Staff II	12 clock hours of instruction in approved core knowledge (CDA) subject areas	Minimum 6 months	Encouraged to participate in an early childhood professional organization
Child Care Staff III	30 clock hours of instruction in approved core knowledge (CDA) subject areas	Minimum 1 year	Encouraged to participate in an early childhood professional organization
Child Care Staff IV	60 clock hours of instruction in approved core knowledge (CDA) subject areas	Minimum 1 year	Encouraged to participate in an early childhood professional organization
Child Care Assistant Teacher I	90 clock hours of instruction in approved core knowledge (CDA) subject areas	Minimum 1 year	Encouraged to participate in an early childhood professional organization
Child Care Assistant Teacher II	120 clock hours of instruction in approved core knowledge (CDA) subject areas	Minimum 1 year	Encouraged to participate in an early childhood professional organization
Child Care Teacher I	CDA credential in preschool or infant/toddler specialization or approved early childhood diploma	Minimum 1 year	Encouraged to participate in an early childhood professional organization
Child Care Teacher II	CDA credential or approved early childhood diploma and 9 CEU's or 2 early childhood college courses or 30 hours toward associate degree with 4 college courses in early childhood or child development or related associate degree	Minimum 2 years	Membership in an early childhood professional organization and service to the profession such as: committee or board membership, service as a CDA advisor or mentor, attendance at a professional conference or event, conference presentation, advocacy and leadership activities
Child Care Teacher III	Associate degree in early childhood or child development or related associate degree with 4 college courses in early childhood or child development or bachelor degree in early childhood or child development or related bachelor degree with 3 college courses in early childhood or child development	Minimum 2 years	Membership in an early childhood professional organization and service to the profession such as: committee or board membership, service as a CDA advisor or mentor, attendance at a professional conference or event, conference presentation, advocacy and leadership activities
Child Care Teacher IV	Bachelor degree in early childhood or child development of which 3 college courses focus on infants and toddlers or related bachelor degree with 6 early childhood or child development college courses of which 3 focus on infants and toddlers	Minimum 2 years	Membership in an early childhood professional organization and service to the profession such as: committee or board membership, service as a CDA advisor or mentor, attendance at a professional conference or event, conference presentation, advocacy and leadership activities
Child Care Master Teacher	Graduate degree in early childhood or child development or unrelated graduate degree with 4 early childhood or child development college courses	Minimum 2 years	Membership in an early childhood professional organization and service to the profession such as: committee or board membership, service as a CDA advisor or mentor, attendance at a professional conference or event, conference presentation, advocacy and leadership activities

D. Qualification for the School Readiness Tax Credit for child care directors and staff.

1. The Department of Social Services shall provide information necessary for the Secretary of the Department of Revenue to determine and/or verify the director and staff levels for earning the credit.

2. Child Care Director Levels

a. Directors who are classified as Director I by LA Pathways are classified as meeting Level I qualifications for purposes of this credit.

b. Directors who are classified as Director II by LA Pathways classified as meeting Level II qualifications for purposes of this credit.

c. Directors who are classified as Director III by LA Pathways are classified as meeting Level III qualifications for purposes of this credit.

d. Directors who are classified as Director IV by LA Pathways are classified as meeting Level IV qualifications for purposes of this credit.

3. Child Care Staff Levels

a. Staff members who are classified as Child Care Teacher I by LA Pathways are classified as meeting Level I requirements for purposes of this credit.

b. Staff members who are classified as Child Care Teacher II by LA Pathways are classified as meeting Level II requirements for purposes of this credit.

c. Staff members who are classified as Child Care Teacher III by LA Pathways are classified as meeting Level III requirements for purposes of this credit.

d. Staff members who are classified as Child Care Teacher IV or Child Care Master Teacher by LA Pathways are classified as meeting Level IV requirements for purposes of this credit.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Part 98 and R.S. 36:474 and R.S. 47:6101 et seq.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 34:95 (January 2008).

Ann S. Williamson
Secretary

0801#058

RULE

**Department of Treasury
Board of Trustees of the Louisiana
State Employees' Retirement System**

ORP—Election to Participate (LAC 58:I.3505)

The Department of the Treasury, Board of Trustees of the Louisiana State Employees' Retirement System ("LASERS") has repealed LAC 58:I.3505, which would require eligible members to elect to participate in the Optional Retirement Plan within 90 days after being appointed. The Rule repeal complies with and is enabled by R.S. 11:515.

Title 58

RETIREMENT

**Part I. Louisiana State Employees' Retirement System
Chapter 35. Optional Retirement Plan
§3505. Election to Participate**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:511 and R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 26:1491 (July 2000), amended LR 29:1121 (July 2003), repealed LR 34:97 (January 2008).

Cindy Rougeou
Executive Director

0801#007

RULE

**Department of Treasury
Board of Trustees of the Louisiana
State Employees' Retirement System**

Rollover of Refunds (LAC 58:I.113)

The Department of the Treasury, Board of Trustees of the Louisiana State Employees' Retirement System ("LASERS") has adopted LAC 58:I.113, which allows LASERS to require a minimum deposit amount for member contribution refunds rolled over to two different accounts. The Rule adoption complies with and is enabled by R.S. 11:515.

Title 58

RETIREMENT

Part I. Louisiana State Employees' Retirement System

Chapter 1. General Provisions

§113. Rollover of Refunds

A. Qualified rollovers of accumulated employee contributions to be refunded may be made to two different accounts with a minimum of \$500 to each account. Refunds of funds totaling less than \$500 shall be limited to a single account.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 34:97 (January 2008).

Cindy Rougeou
Executive Director

0801#006

RULE

**Department of Wildlife and Fisheries
Wildlife and Fisheries Commission**

Removal of Abandoned Crab Traps (LAC 76:VII.367)

The Wildlife and Fisheries Commission does hereby amend a Rule, LAC 76:VII.367, which provides for an abandoned crab trap removal program. Authority to establish these regulations is vested in the commission by R.S. 56:332(N).

Title 76

WILDLIFE AND FISHERIES

Part VII. Fish and Other Aquatic Life

**Chapter 3. Saltwater Sport and Commercial Fishery
§367. Removal of Abandoned Crab Traps**

A. The use of crab traps shall be prohibited from 6 a.m., February 23, 2008, through 6 a.m. March 3, 2008, within

that portion of Lafourche Parish and Terrebonne Parish as described below:

1. from a point originating along the western shoreline of Cut Off Canal at its intersection with Grand Bayou, thence southward along the western shoreline of Cut Off Canal to its intersection with the boundary of the Pointe-aux-Chenes Wildlife Management Area, thence west along the southern boundary of the Pointe-aux-Chenes Wildlife Management Area to the Humble Canal, thence west along the northern shoreline of Humble Canal to its intersection with Bayou Terrebonne, thence south along the western shoreline of Bayou Terrebonne to its intersection with Bush Canal, thence west along the northern shoreline of Bush Canal to its intersection with Bayou Little Caillou, thence south along the western shoreline of Bayou Little Caillou to 29 degrees 17 minutes 00 seconds north latitude, thence east along 29 degrees 17 minutes 00 seconds north latitude to the eastern shoreline of Bayou Pointe-aux-Chenes, thence north along the eastern shoreline of Bayou Pointe-aux-Chenes to the eastern shoreline of Cut Off Canal, thence north along the eastern shoreline of Cut Off Canal to its intersection with the southern shoreline of Grand Bayou, thence west across Cut Off Canal and terminating at the point of origin at the western shoreline of Cut Off Canal at its intersection with Grand Bayou.

B. All crab traps remaining in the closed area during the specified period shall be considered abandoned. These trap removal regulations do not provide authorization for access to private property; authorization to access private property can only be provided by individual landowners. Crab traps may be removed only between one-half hour before sunrise to one-half hour after sunset. Anyone is authorized to remove these abandoned crab traps within the closed area. No person removing crab traps from the designated closed area shall possess these traps outside of the closed area. The Wildlife and Fisheries Commission authorizes the Secretary of the Department of Wildlife and Fisheries to designate disposal sites.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:332(N).

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, and Wildlife and Fisheries Commission LR 30:101 (January 2004), amended LR 31:108 (January 2005), LR 32:266 (February 2006), LR 33:113 (January 2007), LR 34:97 (January 2008).

Bryant O. Hammett, Jr.
Secretary

0801#032

Notices of Intent

NOTICE OF INTENT

Department of Agriculture and Forestry Seed Commission

Seeds (LAC 7:XIII.129 and 131)

In accordance with the provisions of the Administrative Procedures Act, R.S. 49:950 et seq., and R.S. 3:1433, the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Seed Commission, proposes to amend regulations governing the use of a global positioning satellite (GPS) as well as amending the deadline for sugarcane application.

In order for USDA and the Louisiana Department of Agriculture and Forestry to get a more accurate location of seed stock fields to be certified for seed production, the department is amending regulations to require the use of GPS coordinates. In the past farmers and inspectors of seed stock fields have had difficulties determining the correct fields to be inspected due to a lack of accurate information. GPS coordinates submitted with the application will correct these difficulties and will provide valuable reference information for both the department and farmers.

The department is also amending Rules regarding the current application deadline for sugarcane field inspections. The current deadline is May 1st. However, sugarcane field inspections usually begin in April. Therefore, under the current deadline an application may be received after the first field inspection is due thereby disqualifying the crop from being certified.

These Rules are enabled by R.S. 3:1433.

Title 7

AGRICULTURE AND ANIMALS

Part XIII. Seeds

Chapter 1. Contaminated Seed Stock and Other Propagating Stock

Subchapter B. General Seed Certification Requirements

§129. Application for Field Certification

A. The grower must apply for certification on or before the application deadline shown in §131 for seed stock to be certified by the Department of Agriculture and Forestry. The grower must submit a completed application on the form provided by the department.

B. Applications for certification of seed stock for a crop or variety listed in §131 which are submitted after the deadline specified in §131 will not be approved unless field inspection(s) can be completed prior to harvest.

C. Information to accompany application:

1. name of variety;
2. GPS coordinates at or about the center point of each field presented for certification;
3. copy of the purchase invoice, or statement showing class of seed purchased;

4. one sample tag from each lot number (If the grower plants seed of his own production, the class of seed and lot number shall be identified by documentation acceptable to the Department of Agriculture and Forestry); and

5. a map of each field presented for certification.

D. It is the duty of the grower to notify the department at least two weeks prior to harvest of the anticipated harvest date for each field presented for certification.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1433 and R.S. 3:1434.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Seed Commission, LR 8:565 (November 1982), amended LR 12:825 (December 1986), LR 34:

§131. Application Deadlines

- A. Onion bulbs and seed, and shallots—March 1.
- B. Tissue Culture Sugarcane—April 1.
- C. Clover (crimson, red, white), rescue grass, harding grass, vetch, and Irish potatoes—April 1.
- D. Oats, wheat, ryegrass, singletary peas—April 15.
- E. Watermelon—May 1.
- F. Sweet potatoes and sweet potato plants:
 1. greenhouse plantings (virus-tested)—45 days prior to planting;
 2. field plantings—June 1.
- G. Okra—June 15.
- H. Rice—July 1.
- I. Cotton, millet, sesame, sunflower, tree—July 15.
- J. Tomatoes (Spring)—June 1, (Fall)—July 15.
- K. Soybeans—August 1.
- L. Corn—a minimum of 30 days prior to pollination.
- M. Cowpeas—a minimum of 30 days prior to harvest.
- N. Grasses:
 1. bermuda grasses:
 - a. new plantings—minimum of 30 days prior to harvest;
 - b. established stands (fields certified the previous year)—June 1. Renewal application must be submitted;
 2. turf and pasture grass:
 - a. new plantings—at least 15 days prior to land preparation for planting;
 - b. established stands (fields certified the previous year)—June 1. Renewal application must be submitted.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1433.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Seed Commission, LR 8:565 (November 1982), amended LR 9:195 (April 1983), amended by the Department of Agriculture and Forestry, Seed Commission, LR 12:825 (December 1986), LR 13:155 (March 1987), LR 13:232 (April 1987), LR 14:603 (September 1988), LR 23:1283 (October 1997), LR 25:1617 (September 1999), LR 34:

Family Impact Statement

The proposed amendments to Title 7 Part XIII. Chapter 1 governing the use of a global positioning satellite (GPS) as well as amending the deadline for sugarcane application

should not have any known or foreseeable impact on any family as defined by R.S. 49:972 D or on family formation, stability and autonomy. Specifically there should be no known or foreseeable effect on:

1. the stability of the family;
2. the authority and rights of parents regarding the education and supervision of their children;
3. the functioning of the family;
4. family earnings and family budget;
5. the behavior and personal responsibility of children;
6. the ability of the family or a local government to perform the function as contained in the proposed Rule.

All interested persons may submit written comments on the proposed Rule through the close of business on Tuesday, February 26, 2008, to Eric Gates, Department of Agriculture and Forestry, 5825 Florida Blvd., Baton Rouge, LA 70806. All interested persons will be afforded an opportunity to submit data, views or arguments in writing at the address above. No preamble concerning the proposed Rule is available.

Bob Odom
Commissioner

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Seeds**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)
There will be no implementation costs or savings to state or local governmental units.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There is estimated to be no effect on revenue collection of state or local governmental units.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
To the extent that the growers have access to GPS devices or a computer with Internet access, the grower could incur minor costs of acquiring such information as this proposed rule makes it a requirement that GPS coordinates be included within the application for field certification. GPS coordinates are readily available online or via a GPS device. If growers do not have access to a computer with Internet or a GPS device, minor costs of acquiring such information could be incurred. It is not known as to the number of growers who do not have access to a computer with Internet or a GPS device.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
The proposed amendments are not anticipated to have an effect on competition and employment.

Skip Rhorer
Assistant Commissioner
0801#031

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Culture, Recreation and Tourism
Office of Cultural Development**

Cultural Districts (LAC 25:I.Chapter 11)

The Louisiana Department of Culture, Recreation and Tourism, Office of Cultural Development proposes to adopt the following Rule pursuant to Act 298 of the 2007 Regular Session of the Legislature, in accordance with the provisions of the Louisiana Administrative Procedure Act, R.S. 49:950 et seq. The Rule sets forth the standards and procedures for the creation and management of cultural products districts, also called cultural districts, which may be used by local governing authorities as a mechanism for community revitalization through the creation of hubs of cultural activity.

**Title 25
CULTURAL RESOURCES**

Part I. Office of Cultural Development

Chapter 11. Cultural Districts

§1101. Purpose and Authority

A. This Chapter sets forth the standards and procedures for the creation and management of cultural products districts, also called cultural districts, which may be used by local governing authorities as a mechanism for community revitalization through the creation of hubs of cultural activity.

B. These regulations are adopted pursuant to Act 298 of the 2007 Regular Session of the Louisiana Legislature

AUTHORITY NOTE: Promulgated in accordance with Act 298 of the 2007 Regular Session of the Louisiana Legislature.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of Cultural Development, LR 34:

§1103. Definitions

A. The following definitions shall apply for purposes of this Chapter, unless specifically defined otherwise.

Assistant Secretary—the assistant secretary of the office of cultural development, Department of Culture, Recreation and Tourism

Cultural Products District or Cultural District—an area designated by a local governing authority and certified by the Department of Culture, Recreation and Tourism in accordance with the statutory and regulatory procedures, standards, and criteria pertaining to such districts, which district shall be created for the purpose of revitalizing a community by creating a hub of cultural activity, which may include affordable artist housing and workspace.

Department—the Department of Culture, Recreation and Tourism

Local Governing Authority—the governing authority of the parish in which the Cultural District is located unless the district is located within a municipality, in which case "local governing authority" shall mean the governing authority of the municipality. If the district is located partly in a

municipality, "local governing authority" shall mean the governing authority of the parish and the governing authority of the municipality.

Secretary—the secretary of the Department of Culture, Recreation and Tourism

AUTHORITY NOTE: Promulgated in accordance with Act 298 of the 2007 Regular Session of the Louisiana Legislature.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of Cultural Development, LR 34:

§1105. Application

A. A local governing authority may submit to the department an application to designate and certify a specified geographic area as a cultural district.

B. Applications shall be submitted in accordance with the timetable and in the format provided by department policy.

C. If the department, acting through the assistant secretary, deems the application incomplete or requires additional information, the department shall notify the local governing authority through its designated contact, and in such notice, the department shall specify the deficiencies and/or information required to complete the application.

1. If the local governing authority is notified of a deficiency in the application or additional information is requested, the local governing authority shall remedy the deficiency or provide the requested information within 30 days after issuance of the notice of deficiency.

2. If the local governing authority does not remedy the deficiency or provide the requested information within 30 days of receipt of the notice of deficiency, the application will be deemed incomplete and will not be reviewed further.

AUTHORITY NOTE: Promulgated in accordance with Act 298 of the 2007 Regular Session of the Louisiana Legislature.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of Cultural Development, LR 34:

§1107. Criteria

A. The assistant secretary shall evaluate the proposed cultural district to determine whether it meets the mandatory criteria set forth in R.S. 47:305.56.

B. If the proposed district meets the mandatory criteria, the assistant secretary shall then evaluate the potential of the proposed cultural district to accomplish the following purposes:

1. revitalize a neighborhood or area;
2. stimulate the economy;
3. engage residents;
4. draw tourists;
5. provide a sense of community;
6. serve as a gathering place;
7. encourage creativity;
8. strengthen community partnerships;
9. promote the arts and support artists;
10. develop a positive image for the area;
11. enhance property values; and
12. capitalize on local cultural, economic and social assets.

AUTHORITY NOTE: Promulgated in accordance with Act 298 of the 2007 Regular Session of the Louisiana Legislature.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of Cultural Development, LR 34:

§1109. Determination and Appeals

A. The department, through the assistant secretary, will notify the local governing authority in writing whether the proposed cultural district has been certified as proposed, has been certified with amendments, or has been returned with no action.

B. Within 30 days of the local governing authority's receipt of the decision of the department, the local governing authority may submit a request for administrative review to the secretary. A request for administrative review shall include the following:

1. identification of the decision to which the request pertains;
2. a statement of the decision sought;
3. a statement of the facts and reasons upon which such relief is requested; and
4. the name and address to which the department will send all communications regarding the request.

C. The effective date of the certification shall be the date specified in the final written notice of approval.

AUTHORITY NOTE: Promulgated in accordance with Act 298 of the 2007 Regular Session of the Louisiana Legislature.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of Cultural Development, LR 34:

§1111. Reporting requirements

A. By January 31 of each year, the local governing authority shall prepare and submit to the department an annual report on the impact of the certified cultural district with regard to the purposes of the creation of a cultural district.

B. The local governing authority shall submit the annual report in the format set forth by the department.

C. The annual report shall reflect the activity of the prior calendar year.

D. The annual report shall also include cumulative data reflecting activity since the date of the creation of the cultural district.

E. The report shall include information that describes the impact of the tax exemption programs, the tax credit programs, and any other factors that describe the impact of the cultural district on the community, which information shall include but is not limited to:

1. the number, value, and type of historic rehabilitation tax credits applied for;
2. the number, value, and type of historic rehabilitation tax credits awarded;
3. the value of investment in the district through rehabilitation projects or other projects;
4. the number of occupied buildings and use of those buildings;
5. the number of vacant buildings;
6. the sales tax revenue generated in the district;
7. the amount of sales tax revenue not collected on sales of original, one of a kind works of art; and
8. any other evidence of the level of cultural activity in the district.

F. If the local governing authority fails to submit the annual report timely, the department shall report such failure to the House Committee on Ways and Means, the Senate Committee on Revenue and Fiscal Affairs, and the local legislators in whose legislative districts the cultural district is located.

G. If the local governing authority fails to submit the annual report, the department may revoke certification of the cultural district using the procedure set forth in Section 1119. Such revocation shall not become effective less than one year from the date the department issues the notice of failure to the local governing authority

AUTHORITY NOTE: Promulgated in accordance with Act 298 of the 2007 Regular Session of the Louisiana Legislature.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of Cultural Development, LR 34:

§1113. Sales Tax Exemption

A. Sales and use taxes imposed by the state of Louisiana or any of its political subdivisions shall not apply to the sale of original, one-of-a-kind works of art from an established location within the boundaries of a cultural district.

B. An established location shall be any location within the boundaries of the cultural district.

C. Vendors of original, one-of-a-kind works of art should register with the department in order to receive regular communication from the office of cultural development and the Department of Revenue on rulings, guidelines, and advice regarding the implementation of this provision. If a vendor meets the definition of a dealer as provided in R.S. 47:301(4), then the vendor must register with the Department of Revenue as provided by law.

D. Vendors shall certify and document the tax-exempt sale of original, one-of-a-kind works of art in the format prescribed by the Department of Revenue, and shall include the following:

1. a description of the work of art including its medium and dimensions, the name of the artist, its date of creation, and the name, contact information, and qualifications of the person vouching for this information; and

2. a statement by the vendor certifying that to the best of his knowledge the work of art meets the definition of a tax-exempt work of art.

E. The certificates and documents described above shall be retained by the vendor for purposes of audit. Vendors shall provide to the purchaser documentation in the form of an exemption certificate certifying the purchase of an original, one-of-a-kind work of art.

F. Vendors shall submit copies of said certificates and documentation to the local governing authority and the department on an annual basis, by January 1, for the activity of the preceding year, and the vendor shall retain copies of said certificates and documentation for inspection by the Department of Revenue.

G. Prior to the sale, vendors may seek advance advisory opinions from the department, acting through the office of cultural development, to determine whether a specific work of art meets the definition of a tax-exempt work of art.

H. After the sale and upon request of any taxing authority, the office of cultural development, may issue rulings on whether a specific work of art meets the definition of a tax-exempt work of art.

I.1. A work of art is tax exempt if it is sold from an established location within a cultural district and it is:

a. original;

b. one-of-a-kind, except as further defined in Paragraph 2 below;

c. visual art;

d. conceived and made by hand of the artist or under his direction; and

e. not intended for mass production.

2. Examples of eligible media and products include:

a. visual arts and crafts, including but not limited to drawing, painting, sculpture, clay, ceramics, fiber, glass, leather, metal, paper, wood, or mixed media; and

b. limited, numbered editions (up to 100) of lithographs, photography, silk screen, intaglios, etchings, graphic design, giclees, installation art, light sculpture, digital sculpture, video production, and wearable art

3. Examples of ineligible media and products include:

a. performing art;

b. food products;

c. live plants, such as bonsai trees, floral arrangements, wreaths, and garland;

d. music recordings; and

e. reproductions

J. If an audit reveals that sales tax was not collected properly on a work of art, the vendor or purchaser shall remit the amount of the uncollected tax to the proper taxing authorities, along with any penalties or fees. This provision does not affect the assessment and collection procedures undertaken by the Department of Revenue.

AUTHORITY NOTE: Promulgated in accordance with Act 298 of the 2007 Regular Session of the Louisiana Legislature.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of Cultural Development, LR 34:

§1115. Boundaries

A. Following adequate public notice and a period for public comment, a local governing authority may submit to the department an application to amend the boundaries of an established cultural district.

B. Applications shall be submitted in accordance with in the format provided by the department, and shall include:

1. identification of the changes from the current to proposed boundaries;

2. a description of the zoning and/or use of the property that would be included or excluded under the proposed boundary change;

3. the reasons for the proposed change;

4. documentation that the public was notified of the proposed boundary change and had an opportunity to respond in writing to support or oppose the change;

5. all letters, statements, surveys or other indicia of support for the boundary change, including a resolution of support by the local governing entity;

6. all letters, statements, surveys or other indicia of opposition to the proposed boundary change, to the extent such are known or should be known to the local governing authority.

C. If the department deems the application incomplete or requires additional information, the department shall notify the local governing authority through its designated contact, and in such notice, the department shall specify the deficiencies and/or information required to complete the

application. The local governing authority shall remedy the deficiency as set forth in §1105.

D. The department shall inform the local governing authority whether the proposed boundary change has been approved as proposed or has been returned with no action.

E. Within 30 days of the local governing authority's receipt of the decision of the department, acting through the assistant secretary, the local governing authority may submit a request for administrative review to the secretary by following the procedure outlined in §1109.B.

F. The effective date of the approved boundary change shall be one year from the date the local governing authority receives final approval from the department.

AUTHORITY NOTE: Promulgated in accordance with Act 298 of the 2007 Regular Session of the Louisiana Legislature.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of Cultural Development, LR 34:

§1117. Termination by Local Governing Authority

A. Following adequate public notification and a period for public comment, a local governing authority may terminate the existence of an established cultural district by resolution or ordinance.

B. At a minimum, the local governing authority shall publish notice of its intent to terminate the cultural district in the local newspaper and shall take all necessary and reasonable steps to contact by mail all property owners, tenants, the department, and any other organization or individual who has requested to receive such notices.

C. The notice shall include:

1. identification of the cultural district to be terminated;
2. the reasons for the proposed termination;
3. the name and contact information for the individual to whom the public to submit comments to support or oppose the termination;
4. the date, time, and location of a public hearing, if any;
5. the deadline to receive public comment.

D. The effective date of the termination shall be the date specified in the written notice, and which shall be not less than one year from the date of the notice.

AUTHORITY NOTE: Promulgated in accordance with Act 298 of the 2007 Regular Session of the Louisiana Legislature.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of Cultural Development, LR 34:

§1119. Termination by the State

A. The department may initiate procedures to revoke certification of a cultural district under the following circumstances:

1. the local governing authority fails to submit the required reports and documentation set forth in this Chapter;
2. the local governing authority fails to submit the required reports and documentation timely, accurately, or completely;
3. the mandatory criteria, goals, or objectives are no longer met;

4. a cost-benefit analysis conducted or approved by the department reveals that the cultural district is no longer in the public interest.

B. Following adequate public notification and a period for public comment, the department may proceed with the revocation of certification of a cultural district as follows.

1. The department shall provide the public notice of its intent to revoke certification of the cultural district through advertisement in the local journal and through written notice by mail to the local governing authority through its designated contact.

2. The notice shall set forth the facts that warrant termination, the proposed date of termination, and the procedure by which a member of the public may submit comment, feedback, or opposition.

3. Any person who would be aggrieved by the proposed revocation shall have 60 days to request reconsideration of the revocation, which request shall include documentation or other evidence that revocation is not warranted.

4. The department shall issue its final decision no less than ninety days following its initial notice of intent to revoke certification.

5. The effective date of the revocation shall be the date specified in the written notice of intent, and which shall be not less than one year from the date of public notice.

AUTHORITY NOTE: Promulgated in accordance with Act 298 of the 2007 Regular Session of the Louisiana Legislature.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of Cultural Development, LR 34:

Family Impact Statement

The proposed Rule should not have any known or foreseeable impact on any family as defined by R.S. 49:972 D or on family formation, stability and autonomy. Specifically there should be no known or foreseeable effect on:

1. the stability of the family;
2. the authority and rights of parents regarding the education and supervision of their children;
3. the functioning of the family;
4. family earnings and family budget;
5. the behavior and personal responsibility of the children.

Local governmental entities are not required to create cultural districts. Local governmental entities that choose to create cultural districts are required to file an annual report on the impact of the cultural district. Local tax collectors will have to become knowledgeable of the sales tax exemption created by statute, as implemented under the proposed Rule.

All interested persons are invited to submit written comments on the proposed Rule to Gaye Hamilton, Office of Cultural Development, P.O. Box 44247, Baton Rouge, LA 70804. Such comments must be received no later than February 10, 2008 at 4 p.m.

Angele Davis
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Cultural Districts**

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 111—The Louisiana School,
District, and State Accountability System
(LAC 28:LXXXIII.703, 3501-3507, and 4310)

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The agency currently estimates the annual cost of operations to be minimal for the first year, increasing over the second and third years- \$30,000 in FY 07-08, \$40,000 in FY 08-09 and \$221,000 in FY09-10. It is anticipated that the cost of operations will be absorbed by the Department of Revenue and the Office of Cultural Development within the Department of Culture, Recreation and Tourism until FY 2009-10, at which time, depending on the program's growth and development, additional financing support may be required.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is an anticipated decrease in revenue from state and local sales tax on sales of original one-of-a-kind works of art in authorized cultural districts. While there may be an increase in tax revenue collections of state and local governmental units, due to increased economic activity in and around cultural districts, there would also likely be a shifting of economic activity away from other areas outside the new cultural districts, and net state and local tax losses will likely occur. State and local revenue loss exposure is some unknown amount, since local governments will designate the boundaries of cultural districts. The number, location and size of newly authorized cultural products districts across the state can only be speculated about, at best. The same is the case for the level of rehabilitation activity and artistic sales that might occur within them. Depending on the number of cultural districts authorized there will be increased geographic areas in which property owners can qualify for a state income tax credit for rehabilitation of historic properties. This is likely to decrease state revenue from individual income tax and corporate franchise tax.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Cultural Districts will encourage building restoration, commerce, tourism, and creation of cultural products. Developers, local government, community organizations, and business owners will share responsibility and costs to organize, plan, and promote cultural districts. The economic benefit to the community is the increased economic stimulus provided by restoration within each cultural district. Owners of historic properties in new cultural districts could benefit by up \$25,000 per structure in tax credit for qualifying rehabilitation costs for owner occupied properties on their state income tax liability. Owners of revenue producing historic properties in the new cultural districts who choose to rehabilitate their properties could benefit by receiving up to 25% of eligible costs and expenses as income tax or corporate franchise tax credit up to \$5 million per structure. At this time it is not possible to quantify the aggregate costs or benefits.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Cultural Districts are designed to enhance the economy of communities through incentives to renovate buildings for existing and new businesses, artist's quarters and workspace and to encourage culture centered activity. However, additional economic activity within these new districts will likely shift activity away from other areas of the community.

Angele Davis
Secretary
0801#025

Robert E. Hosse
Staff Director
Legislative Fiscal Office

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement revisions to *Bulletin 111—The Louisiana School, District, and State Accountability System* (LAC Part Number LXXXIII). Act 478 of the 1997 Regular Legislative Session called for the development of an Accountability System for the purpose of implementing fundamental changes in classroom teaching by helping schools and communities focus on improved student achievement. The State's Accountability System is an evolving system with different components that are required to change in response to state and federal laws and regulations.

The proposed changes to Bulletin 111 §703 and §4310 clarify how calculations are rounded off for students who may achieve proficiency on alternate assessments. Proposed changes in §§3501, 3503, 3505, and 3507 eliminate references to defunct tests, change the wording for "routing" options available to schools, and limit the number of times to three that assessment results for GED/Skills Options students may be included in accountability calculations.

Title 28

EDUCATION

Part. LXXXIII. Bulletin 111—The Louisiana School, District, and State Accountability System

Chapter 7. Subgroup Component

§703. Inclusion of Students in the Subgroup

Component

A. - C.1.b.ii. ...

c. Beginning in Fall 2007, districts that exceed the 2 percent cap may do so without penalty if the sum of LAA1 and LAA2 students labeled proficient does not exceed 3 percent of all students tested within the district.

d. When calculating the 1 percent, 2 percent, and 3 percent caps for alternate assessment purposes, all decimals in results shall be rounded to the next highest whole number.

i. 1.0 percent of 628 students is 6.28 students. The 1.0 percent cap, in this instance, is 7 students.

C.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2743 (December 2003), amended LR 30:1619 (August 2004), repromulgated LR 30:1996 (September 2004), amended LR 30:2256 (October 2004), amended LR 30:2445 (November 2004), LR 31:912 (April 2005), LR 31:2762 (November 2005), LR 33:253 (February 2007), LR 34:

Chapter 35. Inclusion of Alternative Education Students

§3501. Routing Choices

A. Each superintendent, in conjunction with the alternative school director, shall choose from one of two routing options for including assessment results in the

Louisiana Accountability System for the system's alternative education schools.

B. ...

1. For those LEAs providing educational services directly to students in these programs/facilities, the LEA must designate the program/facility as a routing or non-routing alternative school, and the students' assessment, dropout/exit and attendance data shall be included in the LEA's data for district accountability purposes.

2. ...

a. If an LEA does satisfy its educational obligations by contract, the program/facility shall be designated as a non-routing alternative school and will receive its own SPS.

b. The data for these students shall not be included in the local school district's data for district accountability purposes.

c. The assessment, dropout/exit and attendance results for these students shall be included in a "R.S. 17:100.1 school district" for accountability purposes. The Department shall have the discretion to create multiple "R.S. 17:100.1 school districts" so that the accountability data accurately reflects the operation of the various programs/facilities.

C. GED/Skills Option students' iLEAP, LAA 1, and LAA 2 assessment results shall be included in accountability no more than three times.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2753 (December 2003), amended LR 31:423 (February 2005), LR 34:

§3503. Routing Schools

A. The assessment results, and beginning in 2008 with the Baseline SPS, the dropout, and graduation data for every alternative education student at a routing alternative school shall be returned to ("sent back") and included in the home-based school's and district's accountability calculations for both the SPS and subgroup components. The alternative school itself shall receive a "diagnostic" SPS, not to be used for rewards or corrective actions, if a statistically valid number of students were enrolled in the school at the time of testing

B. Students included in the GED/Skills Option program will be included in school accountability. They will be required to take the 9th grade iLEAP exams-or participate in LEAP Alternate Assessment Level 1 or Level 2 (LAA 1 or 2) while enrolled. All programs will be considered routing for alternative education purposes, and student test score data, and beginning in 2008 with the Baseline SPS, dropout, and graduation data will be sent back to the sending high schools and districts for accountability purposes.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2753 (December 2003), amended LR 30:2446 (November 2004), LR 32:1028 (June 2006), LR 33:2600 (December 2007), LR 34:

§3505. Non-Routing Schools

A. ...

B. In order to be eligible for non-routing status, an alternative school shall meet all of the following requirements:

1. - 2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2753 (December 2003), LR 34:

§3507. Option Considerations

A. Once routing status is selected for an alternative school, it shall retain that status for at least 10 years. An appeal to the SBESE may be made to change the status prior to the end of 10 years if a school's purpose and/or student eligibility changes.

B. All students pursuing a regular high school diploma, working in curricula developed from Louisiana Content Standards, shall be included in the state-testing program, with those scores included in an SPS, and the subgroup component.

B.1. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2753 (December 2003), amended LR 33:2600 (December 2007), LR 34:

§4310. Subgroup Component AYP (Adequate Yearly Progress)

A. - B.3.d.i. ...

e. LEP students shall participate in the statewide assessments.

i. Scores shall not be included in AMO or improvement in percent proficient calculations for LEP students who have not been enrolled in an English-speaking school for one full school year.

f. When calculating the 1 percent, 2 percent, and 3 percent caps for alternate assessment purposes, all decimals in results shall be rounded to the next highest whole number.

i. 1.0 percent of 1341 students is 13.41 students. The 1.0 percent cap, in this instance, is 14 students.

B.4. - E.2.b.NOTE ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:1447 (July 2004), amended LR 30:2446 (November 2004), LR 31:424 (February 2005), LR 31:633 (March 2005), LR 31:913 (April 2005), LR 32:1029 (June 2006), amended LR 33:635 (April 2007), LR 34:

Family Impact Statement

In accordance with Section 953 and 972 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a Family Impact Statement on the Rule proposed for adoption, repeal or amendment. All Family Impact Statements shall be kept on file in the state board office which has adopted, amended, or repealed a rule in accordance with the applicable provisions of the law relating to public records.

1. Will the proposed Rule affect the stability of the family? No.

2. Will the proposed Rule affect the authority and rights of parents regarding the education and supervision of their children? No.

3. Will the proposed Rule affect the functioning of the family? No.

4. Will the proposed Rule affect family earnings and family budget? No.

5. Will the proposed Rule affect the behavior and personal responsibility of children? No.

6. Is the family or a local government able to perform the function as contained in the proposed Rule? Yes.

Interested persons may submit written comments until 4:30 p.m., March 10, 2008, to Nina A. Ford, Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Weegie Peabody
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: **Bulletin 111—The Louisiana School, District, and State Accountability System**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed changes to Bulletin 111 section 703 and section 4310 clarify how calculations are rounded off for students who may achieve proficiency on alternate assessments. Proposed changes in sections 3501, 3503, 3505, and 3507 eliminate references to defunct tests, change the wording for "routing" options available to schools, and limit the number of times to 3 that assessment results for GED/Skills Options students may be included in accountability calculations.

There are no estimated implementation costs (savings) to state or local governmental units as a result of these changes.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no effect on revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There will be no estimated costs and/or economic benefits to directly affected persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition and employment.

Beth Scioneaux
Deputy Superintendent
0801#051

H. Gordon Monk
Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 746—Louisiana Standards for State Certification of School Personnel—Cooperative Education (LAC 28:CXXXI.657)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement revisions to *Bulletin 746—Louisiana Standards for State Certification of School Personnel*: §657. Cooperative Education. This revision will expand the option of having certification endorsements added to valid standard Louisiana certificates in the areas of Cooperative Office Education (COE), Cooperative Agriculture Education (CAE), Cooperative Marketing Education (CME), Cooperative Family/Consumer Sciences (CFCS), and Cooperative Technology Education (CTE). In addition, Career and Technical Industrial Education (CTTIE) teachers

will be eligible to add-on Trade and Industrial Cooperative Education (TICE) or Cooperative Health Occupations (CHO) to their valid Louisiana CTTIE certificates. Previously teachers were only able to add Cooperative Office Education to Business Education certificates. This will allow teachers to add cooperative education in the area of their teaching assignment.

Title 28 EDUCATION

Part CXXXI. Bulletin 746—Louisiana Standards for State Certification of School Personnel

Chapter 6. Endorsements to Existing Certification Subchapter C. All Other Teaching Endorsement Areas §657. Cooperative Education

A. Cooperative education eligibility requirements for certification in Cooperative Agriculture Education (CAE), Cooperative Office Education (COE), Cooperative Marketing Education (CME), Cooperative Family and Consumer Sciences (CFCS), or Cooperative Technology Education (CTE):

1. hold a valid Louisiana teaching certificate in the area of Business, Agriculture, Marketing, Family and Consumer Science or Technology Education;

2. have a minimum of one year of teaching experience in Business, Agriculture, Marketing Family and Consumer Science or Technology Education;

3. have completed six semester hours, to include Principles and/or Philosophy of Vocational Education and Cooperative Education Methods (Method and/or Techniques of Teaching Cooperative Education);

4. have a minimum of 1,500 hours of employment in program occupations approved by the Family, Career and Technical Education, Career and Technical Education Section, Louisiana Department of Education or a minimum of 120 hours in a supervised field practicum in the area of occupational certification, offered by a regionally accredited post secondary institution, or other requirements as specified by the industry.

B. Cooperative education eligibility requirements for Trade and Industrial Cooperative Education (TICE) and Cooperative Health Occupations (CHO) for teachers holding CTTIE certificates:

1. hold a valid Louisiana CTTIE teaching certificate in the area of the CTTIE certification area;

2. have a minimum of one year teaching experience in the CTTIE certification area;

3. have completed six semester hours, to include Principles and/or Philosophy of Career and Technical Education and Cooperative Education Methods (Method and/or Techniques of Teaching Cooperative Education);

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1819 (October 2006), amended LR 34:

Family Impact Statement

In accordance with Section 953 and 972 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a Family Impact Statement on the Rule proposed for adoption, repeal or amendment. All Family Impact Statements shall be kept on file in the state board office which has adopted,

amended, or repealed a rule in accordance with the applicable provisions of the law relating to public records.

1. Will the proposed Rule affect the stability of the family? No.

2. Will the proposed Rule affect the authority and rights of parents regarding the education and supervision of their children? No.

3. Will the proposed Rule affect the functioning of the family? No.

4. Will the proposed Rule affect family earnings and family budget? No.

5. Will the proposed Rule affect the behavior and personal responsibility of children? No.

6. Is the family or a local government able to perform the function as contained in the proposed Rule? Yes.

Interested persons may submit written comments until 4:30 p.m., March 10, 2008, to: Nina Ford, State Board of Elementary and Secondary Education, P. O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Weegie Peabody
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Bulletin 746—Louisiana Standards for State Certification of School Personnel Cooperative Education

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

This revision will expand the option of having certification endorsements added to valid standard Louisiana certificates in the areas of Cooperative Office Education (COE), Cooperative Agriculture Education (CAE), Cooperative Marketing Education (CME), Cooperative Family/Consumer Sciences (CFCS), and Cooperative Technology Education (CTE). In addition, Career and Technical Industrial Education (CTTIE) teachers will be eligible to add-on Trade and Industrial Cooperative Education (TICE) or Cooperative Health Occupations (CHO) to their valid Louisiana CTTIE certificates. The adoption of this policy will cost the Department of Education approximately \$700 (printing and postage) to disseminate the policy.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

This policy will have no effect on revenue collections.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There are no estimated costs and/or economic benefits to directly affected persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This policy will have no effect on competition and employment.

Beth Scioneaux
Deputy Superintendent
0801#050

H. Gordon Monk
Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Department of Environmental Quality Office of the Secretary

Additional Supplementary Information for Permit Applications (LAC 33:VII.523)(SW047)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Solid Waste regulations, LAC 33:VII.523 (Log #SW047).

LAC 33:VII.523.B was previously added to the solid waste regulations in order to reflect R.S. 30:2018(E)(4). Currently, this regulation reflects the statute by stating, "An application for renewal or extension of an existing permit shall not be subject to submittal of the additional supplementary information required in Subsection A of this Section, unless said renewal or extension encompasses changes that need to be addressed as major applications." The additional supplementary information refers to the "IT" questions in LAC 33:VII.523.A. However, after further review, it has been determined that R.S. 30:2018(H) basically negates R.S. 30:2018(E)(4). Therefore, the exemption is not needed in the regulations and will be deleted in order to alleviate any potential conflict with the requirements of R.S. 30:2018. The deletion will restore the requirement in LAC 33:VII.523 to its previous language. The basis and rationale for this Rule are to alleviate any potential conflict with the requirements of R.S. 30:2018. This proposed Rule meets an exception listed in R.S. 30:2019(D)(2) and R.S. 49:953(G)(3); therefore, no report regarding environmental/health benefits and social/economic costs is required.

Title 33

ENVIRONMENTAL QUALITY

Part VII. Solid Waste

Subpart 1. Solid Waste Regulations

Chapter 5. Solid Waste Management System

Subchapter D. Permit Application

§523. Part III: Additional Supplementary Information

A. - A.5. ...

B. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended by the Office of Waste Services, Solid Waste Division, LR 23:1685 (December 1997), amended by the Office of the Secretary, Legal Affairs Division, LR 33:1044 (June 2007), LR 34:

This proposed Rule has no known impact on family formation, stability, and autonomy as described in R.S. 49:972.

A public hearing will be held on February 26, 2008, at 1:30 p.m. in the Galvez Building, Oliver Pollock Conference Room, 602 N. Fifth Street, Baton Rouge, LA 70802.

Interested persons are invited to attend and submit oral comments on the proposed amendments. Should individuals with a disability need an accommodation in order to participate, contact Judith A. Schuerman, Ph.D., at the address given below or at (225) 219-3550. Parking in the Galvez Garage is free with a validated parking ticket.

All interested persons are invited to submit written comments on the proposed regulation. Persons commenting should reference this proposed regulation by SW047. Such comments must be received no later than March 4, 2008, at 4:30 p.m., and should be sent to Judith A. Schuerman, Ph.D., Office of the Secretary, Legal Affairs Division, Box 4302, Baton Rouge, LA 70821-4302 or to fax (225) 219-3582 or by e-mail to judith.schuerman@la.gov. Copies of this proposed regulation can be purchased by contacting the DEQ Public Records Center at (225) 219-3168. Check or money order is required in advance for each copy of SW047. This regulation is available on the Internet at www.deq.louisiana.gov/portal/tabid/2823/default.aspx.

This proposed regulation is available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 602 N. Fifth Street, Baton Rouge, LA 70802; 1823 Highway 546, West Monroe, LA 71292; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 1301 Gadwall Street, Lake Charles, LA 70615; 111 New Center Drive, Lafayette, LA 70508; 110 Barataria Street, Lockport, LA 70374; 645 N. Lotus Drive, Suite C, Mandeville, LA 70471.

Herman Robinson, CPM
Executive Counsel

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Additional Supplementary Information
for Permit Applications**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)
There are no estimated implementation costs (savings) to state or local governmental units associated with the implementation of this rule.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There is no estimated effect on revenue collections of state or local governmental units associated with the implementation of this rule.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
There are no estimated costs and/or economic benefits to directly affected persons or non-governmental groups associated with the implementation of this rule.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There is no estimated effect on competition or employment associated with the implementation of this rule.

Herman Robinson, CPM
Executive Counsel
0801#015

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Office of the Governor
Division of Administration
Office of Group Benefits**

PPO and EPO Plans of Benefits—Ambulance Services
(LAC 32:III.301 and V.301)

In accordance with the applicable provisions of R.S. 49:950, et seq., the Administrative Procedure Act, and pursuant to the authority granted by R.S. 42:801(C) and 802(B)(2), as amended and reenacted by Act 1178 of 2001, vesting the Office of Group Benefits (OGB) with the responsibility for administration of the programs of benefits authorized and provided pursuant to Chapter 12 of Title 42 of the Louisiana Revised Statutes, and granting the power to adopt and promulgate Rules with respect thereto, OGB finds that it is necessary to revise and amend provisions of the PPO and EPO Plan Documents regarding ambulance services to remove the benefits limitations and copayments.

Accordingly, OGB hereby gives Notice of Intent to adopt the following Rule to become effective May 1, 2008.

Title 32

EMPLOYEE BENEFITS

Part III. Preferred Provider (PPO) Plan of Benefits

Chapter 3. Medical Benefits

§301. Eligible Expenses

A.1. - 13. ...

14. Professional ambulance services that are medically necessary, subject to the following provisions:

a. licensed professional ambulance service in a vehicle licensed for highway use to or from a hospital with facilities to treat an illness or injury;

b. licensed air ambulance service to a hospital with facilities to treat an illness or injury;

15. - 35.c. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:801(C) and 802(B)(1).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Trustees of the State Employees Group Benefits Program, LR 25:1830 (October 1999), amended by the Office of the Governor, Division of Administration, Office of Group Benefits, LR 28:480 (March 2002), LR 29:339, 343 (March 2003), LR 30:1192 (June 2004), LR 31:441 (February 2005), LR 32:1888 (October 2006), LR 32:1898 (October 2006), LR 34:

Part V. Exclusive Provider Organization (EPO) Plan of Benefits

Chapter 3. Medical Benefits

§301. Eligible Expenses

A.1. - 13. ...

14. Professional ambulance services that are medically necessary, subject to the following provisions:

a. licensed professional ambulance service in a vehicle licensed for highway use to or from a hospital with facilities to treat an illness or injury;

b. licensed air ambulance service to a hospital with facilities to treat an illness or injury;

15. - 35.c. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:801(C) and 802(B)(1).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Trustees, State Employees Group Benefits Program, LR 25:1810 (October 1999), amended by the Office of the Governor, Division of Administration, Office of Group Benefits, LR 28:478 (March 2002), LR 29:334, 338 (March 2003), LR 30:1190 (June 2004), LR 31:440 (February 2005), LR 32:1860 (October 2006), LR 32:1898 (October 2006), LR 34:

Family Impact Statement

The proposed Rule has no known impact on family formation, stability, or autonomy, except as follows: The proposed Rule will provide additional benefits for OGB covered individuals requiring ambulance services by removing benefits limitations and copayments.

Interested persons may present their views, in writing, to Tommy D. Teague, Chief Executive Officer, Office of Group Benefits, Box 44036, Baton Rouge, LA 70804, until 4:30 p.m. on Tuesday, February 26, 2008.

Tommy D. Teague
Chief Executive Officer

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: PPO and EPO Plans of Benefits—Ambulance Services

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is estimated that this benefit modification could cost the PPO and EPO plans of OGB from \$0 to \$40,000 annually if the current plan of benefits for payment of up to \$350 less a \$50 co-payment for ground transportation and up to \$1,500 less a \$250 co-payment for air ambulance is modified to a benefit to pay up to 90% of Medicare's fee schedule if in-network and 70% if out-of-network, after deductible. Costs could increase \$0 - \$6,700 for FY 07/08 (2 months), \$0 - \$43,200 for FY 08/09 and \$0 - \$46,700 for FY 09/10 (an 8% trend factor has been applied to FY 08/09 and FY 09/10. Although the increase of \$0 - \$6,700 in FY 07/08 for the cost of this benefit to OGB is paid from Agency-Self Generated Funds, 66% of the impact \$0 - \$4,400 will be paid with State General Fund for employer contribution of premiums paid to OGB. It is anticipated \$3,000 in expenses will be incurred with the publishing of this rule in FY 07/08.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Revenue collections of State or Local Governmental units should not be affected.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This rule will result in PPO & EPO members (approximately 116,000) having ambulance services paid at a rate of up to 90% of the Medicare fee schedule for an in-network provider and up to 70% of the Medicare fee schedule for an out-of-network provider. There is no direct premium increase for members as a result of this additional benefit, in itself for FY 07/08, but increased costs will be considered for premium rates that are effective July 1, 2008 and thereafter.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Competition and employment will not be affected.

Tommy D. Teague
Chief Executive Officer
0801#045

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Office of the Governor
Division of Administration
Office of Group Benefits**

PPO and EPO Plans of Benefits—Durable Medical Equipment (LAC 32: III:301 and 701, V:301 and 701)

In accordance with the applicable provisions of R.S. 49:950, et seq., the Administrative Procedure Act, and pursuant to the authority granted by R.S. 42:801(C) and 802(B)(2), as amended and reenacted by Act 1178 of 2001, vesting the Office of Group Benefits (OGB) with the responsibility for administration of the programs of benefits authorized and provided pursuant to Chapter 12 of Title 42 of the Louisiana Revised Statutes, and granting the power to adopt and promulgate Rules with respect thereto, OGB finds that it is necessary to revise and amend provisions of the PPO and EPO plan documents regarding durable medical equipment to remove the separate \$50,000 lifetime limit on benefits.

Accordingly, OGB hereby gives Notice of Intent to adopt the following Rule to become effective May 1, 2008.

Title 32

EMPLOYEE BENEFITS

Part III. Preferred Provider (PPO) Plan of Benefits

Chapter 3. Medical Benefits

§301. Eligible Expenses

A.1. - 11.f. ...

12. Durable Medical Equipment—The program will require written certification by the treating physician to substantiate the medical necessity for the equipment and the length of time that it will be used. The purchase of durable medical equipment will be considered an eligible expense only upon a showing that the rental cost would exceed the purchase price. Under no circumstances may the eligible expense for an item of durable medical equipment exceed the purchase price of such item;

13. - 35.c. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:801(C) and 802(B)(1).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Trustees of the State Employees Group Benefits Program, LR 25:1830 (October 1999), amended by the Office of the Governor, Division of Administration, Office of Group Benefits, LR 28:480 (March 2002), LR 29:339, 343 (March 2003), LR 30:1192 (June 2004), LR 31:441 (February 2005), LR 32:1888 (October 2006), LR 32:1898 (October 2006), LR 34:

Chapter 7. Schedule of Benefits—PPO

§701. Comprehensive Medical Benefits

A. - C.3. ...

D. Durable Medical Equipment

Percentage payable	See % payable after deductible
--------------------	--------------------------------

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:801(C) and 802(B)(1).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Trustees of the State Employees Group Benefits Program, LR 25:1843 (October 1999), amended LR 26:488 (March 2000), LR 27:719, 720, 722 (May 2001), amended by the Office of the Governor, Division of Administration, Office of Group Benefits, LR 27:1887 (November 2001), LR 28:2345 (November 2002), LR 29:340, 342, 343 (March 2003),

repromulgated LR 29:578 (April 2003), amended LR 30:1192 (June 2004), LR 32:1897 (October 2006), LR 33:644 (April 2007), LR 33:1122 (June 2007), LR 34:

Tommy D. Teague
Chief Executive Officer

Part V. Exclusive Provider Organization (EPO) Plan of Benefits

Chapter 3. Medical Benefits

§301. Eligible Expenses

A.1. - 11.f. ...

12. Durable Medical Equipment—The program will require written certification by the treating physician to substantiate the medical necessity for the equipment and the length of time that it will be used. The purchase of durable medical equipment will be considered an eligible expense only upon a showing that the rental cost would exceed the purchase price. Under no circumstances may the eligible expense for an item of durable medical equipment exceed the purchase price of such item;

13. - 35.c. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:801(C) and 802(B)(1).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Trustees, State Employees Group Benefits Program, LR 25:1810 (October 1999), amended by the Office of the Governor, Division of Administration, Office of Group Benefits, LR 28:478 (March 2002), LR 29:334, 338 (March 2003), LR 30:1190 (June 2004), LR 31:440 (February 2005), LR 32:1860 (October 2006), LR 32:1898 (October 2006), LR 34:

Chapter 7. Schedule of Benefits—EPO

§701. Comprehensive Medical Benefits

A. - D. ...

E. Durable Medical Equipment

	Non-Participating Provider	EPO Participating Provider
Percentage Payable	See percentage payable after applicable deductible (above)	20% member co-pay; 100% coverage after \$10,000 eligible expense for plan year

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:801(C) and 802(B)(1).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Trustees of the State Employees' Group Benefits Program, LR 25:1823 (October 1999), amended LR 26:487 (March 2000), LR 27:717 and 719 (May 2001), amended by the Office of the Governor, Division of Administration, Office of Group Benefits, LR 27:1886 (November 2001), LR 28:476 (March 2002), LR 28:2342, 2343 (November 2002), repromulgated LR 28:2509 (December 2002), amended LR 29:335, 337, 338 (March 2003), LR 30:1190 (June 2004), LR 32:1869 (October 2006), LR 33:644 (April 2007), LR 33:1122 (June 2007), LR 34:

Family Impact Statement

The proposed Rule has no known impact on family formation, stability, or autonomy, except as follows. The proposed Rule will provide additional benefits, lessening the financial burden on those individuals who require durable medical equipment exceeding the current \$50,000 lifetime maximum.

Interested persons may present their views, in writing, to Tommy D. Teague, Chief Executive Officer, Office of Group Benefits, Box 44036, Baton Rouge, LA 70804, until 4:30 p.m. on Tuesday, February 26, 2008.

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: PPO and EPO Plans of Benefits—Durable Medical Equipment

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is estimated that this benefit modification could cost the PPO and EPO plans of OGB from \$25,000 - \$50,000 annually if the current benefit limit of \$50,000 per member is eliminated. All claims for Durable Medical Equipment would now fall under the \$5,000,000 lifetime maximum benefit that is in place for all claims. Costs could increase \$4,200 - \$8,400 for FY 07/08 (2 months), \$27,000 - \$54,000 for FY 08/09 and \$29,200 - \$58,400 for FY 09/10 (an 8% trend factor has been applied to FY 08/09 and FY 09/10. Although the increase of \$4,200 - \$8,400 in FY 07/08 for the cost of this benefit to OGB is paid from Agency-Self Generated Funds, 66% of the impact \$2,800 - \$5,600 will be paid with State General Fund for employer contribution of premiums paid to OGB. It is anticipated \$3,000 in expenses will be incurred with the publishing of this rule in FY 07/08.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Revenue collections of State or Local Governmental units should not be affected.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This rule will result in PPO & EPO members (approximately 116,000) having the \$50,000 lifetime maximum per member for durable medical equipment (DME) eliminated. All expense for DME claims will be charged to the current \$5,000,000 lifetime maximum that is in place for all claims.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Competition and employment will not be affected.

Tommy D. Teague
Chief Executive Officer
0801#044

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Office of the Governor
Division of Administration
Office of Group Benefits**

**PPO and EPO Plans of Benefits—Genetic Testing
(LAC 32:III.317 and V.317)**

In accordance with the applicable provisions of R.S. 49:950 et seq., the Administrative Procedure Act, and pursuant to the authority granted by R.S. 42:801(C) and 802(B)(2), as amended and reenacted by Act 1178 of 2001, vesting the Office of Group Benefits (OGB) with the responsibility for administration of the programs of benefits authorized and provided pursuant to Chapter 12 of Title 42 of the Louisiana Revised Statutes, and granting the power to adopt and promulgate Rules with respect thereto, OGB finds that it is necessary to revise and amend provisions of the PPO and EPO plan documents setting forth the general exclusion for molecular laboratory procedures related

genetic testing, to provide additional exceptions from the exclusion when such procedures are determined to be medically necessary for histocompatibility/blood typing, neoplasia, hereditary disorders, or other condition approved in advance by OGB.

Accordingly, OGB hereby gives Notice of Intent to adopt the following Rule to become effective May 1, 2008.

Title 32

EMPLOYEE BENEFITS

Part III. Preferred Provider (PPO) Plan of Benefits

Chapter 3. Medical Benefits

§317. Exceptions and Exclusions

A. - A.30. ...

31. molecular laboratory procedures related to genetic testing except when determined to be medically necessary during a covered pregnancy, or for histocompatibility/blood typing, neoplasia, hereditary disorders, or other condition approved in advance by OGB;

32. - 40. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:801(C) and 802(B)(1).

HISTORICAL NOTE: Promulgated Office of the Governor, Board of Trustees of the State Employees Group Benefits Program, LR 25:1834 (October 1999), amended LR 26:488 (March 2000), LR 27:720 (May 2001), amended by the Office of the Governor, Division of Administration, Office of Group Benefits, LR 28:2343 (November 2002), LR 31:441 (February 2005), LR 32:1891 (October 2006), LR 34:

Part V. Exclusive Provider Organization (EPO) Plan of Benefits

Chapter 3. Medical Benefits

§317. Exceptions and Exclusions

A. - A.30. ...

31. molecular laboratory procedures related to genetic testing except when determined to be medically necessary during a covered pregnancy, or for histocompatibility/blood typing, neoplasia, hereditary disorders, or other condition approved in advance by OGB;

32. - 40. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:801(C) and 802(B)(1).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Trustees of the State Employees Group Benefits Program, LR 25:1813 (October 1999), amended LR 26:487 (March 2000), LR 27:717 (May 2001), amended by the Office of the Governor, Division of Administration, Office of Group Benefits, LR 28:2340 (November 2002), LR 31:440 (February 2005), LR 32:1863 (October 2006), LR 34:

Family Impact Statement

The proposed Rule has no known impact on family formation, stability, or autonomy, except as follows: The proposed Rule will provide additional benefits when molecular laboratory procedures related to genetic testing are determined to be medically necessary for the conditions specified.

Interested persons may present their views, in writing, to Tommy D. Teague, Chief Executive Officer, Office of Group Benefits, Box 44036, Baton Rouge, LA 70804, until 4:30 p.m. on Tuesday, February 26, 2008.

Tommy D. Teague
Chief Executive Officer

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: PPO and EPO Plans of Benefits—Genetic Testing

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is estimated that this benefit modification could cost the PPO and EPO plans of OGB from \$300,000-\$400,000 annually if the current benefits are expanded to allow medical laboratory testing for histocompatibility/blood typing, neoplasia, hereditary disorders, or other conditions approved in advance by OGB. Costs could increase \$50,000-\$67,000 for FY 07/08 (2 months), \$324,000-\$432,000 for FY 08/09 and \$350,000-\$466,600 for FY 09/10 (an 8% trend factor has been applied to FY 08/09 and FY 09/10. Although the increase of \$50,000-\$67,000 in FY 07/08 for the cost of this benefit to OGB is paid from Agency-Self Generated Funds, 66% of the impact \$33,000-\$44,000 will be paid with State General Fund for employer contribution of premiums paid to OGB. It is anticipated \$3,000 in expenses will be incurred with the publishing of this rule in FY 07/08.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Revenue collections of State or Local Governmental units should not be affected.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This rule will result in PPO and EPO members (approximately 116,000) having benefits payable for medical laboratory testing for histocompatibility/blood typing, neoplasia, hereditary disorders and other conditions approved in advance by OGB when medically necessary (approximately 100-200 procedures per year).

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Competition and employment will not be affected.

Tommy D. Teague
Chief Executive Officer
0801#043

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Office of the Governor Division of Administration Office of Group Benefits

PPO and EPO Plans of Benefits—Medicare
(LAC 32:III.315 and V.315)

In accordance with the applicable provisions of R.S. 49:950 et seq., the Administrative Procedure Act, and pursuant to the authority granted by R.S. 42:801(C) and 802(B)(2), as amended and reenacted by Act 1178 of 2001, vesting the Office of Group Benefits (OGB) with the responsibility for administration of the programs of benefits authorized and provided pursuant to Chapter 12 of Title 42 of the Louisiana Revised Statutes, and granting the power to adopt and promulgate Rules with respect thereto, OGB finds

that it is necessary to revise and amend provisions of the PPO and EPO plan documents regarding OGB coverage and Medicare in order to enhance member understanding and to facilitate the administration of health care benefits effectively for the program and member. The proposed modifications effect no substantive changes to the plan documents and only serve to more clearly express the intent of the Medicare provision in accordance with OGB's existing administrative interpretation and application.

Accordingly, OGB hereby gives Notice of Intent to adopt the following Rule to become effective upon promulgation.

Title 32

EMPLOYEE BENEFITS

Part III. Preferred Provider (PPO) Plan of Benefits

Chapter 3. Medical Benefits

§315. Medicare and OGB

A. When an individual is covered by this plan and by Medicare, Medicare laws and regulations govern the order of benefit determination, that is, whether Medicare is the primary or secondary payer.

B. Except as provided in Subsection C (below), when an individual is covered by this plan and by Medicare, and:

1. this plan is the primary payer, benefits will be paid without regard to Medicare coverage;

2. Medicare is the primary payer, eligible expenses under this plan will be limited to the amount allowed by Medicare, less the amount paid or payable by Medicare. All provisions of this plan, including all provisions related to deductibles, co-insurance, limitations, exceptions, and exclusions will be applied.

C. The following applies to retirees and to covered spouses of retirees who attain or have attained the age of 65 on or after July 1, 2005.

1. Upon attainment of age 65, a retiree and/or the retiree's spouse may be eligible for Medicare if the retiree or the retiree's spouse has sufficient earnings credits.

2. A retiree or spouse of a retiree who attains or has attained age 65 when either has sufficient earnings credits to be eligible for Medicare, must enroll in Medicare Part A and Medicare Part B in order to receive benefits under this plan except as specifically provided in Paragraph 3, below.

3. If such retiree or spouse of a retiree is not enrolled in Medicare Part A and Medicare Part B, no benefits will be paid or payable under this plan except benefits payable as secondary to the part of Medicare in which the individual is enrolled.

4. A retiree and spouse of a retiree who do not have sufficient earnings credits to be eligible for Medicare must provide written verification from the Social Security Administration or its successor.

D. Retiree 100-Medicare COB—Upon enrollment and payment of the additional monthly premium, a plan member and dependents who are covered under Medicare Parts A and B (both) may choose to have full coordination of benefits with Medicare. Enrollment must be made within 30 days of eligibility for Medicare, or within 30 days of retirement if already eligible for Medicare, and at the annual enrollment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:801(C) and 802(B)(1).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Trustees of the State Employees Group Benefits Program, LR 25:1833 (October 1999), amended by the Office of the Governor, Division of Administration, Office of Group Benefits, LR 32:1891 (October 2006), LR 34:

Part V. Exclusive Provider Organization (EPO) Plan of Benefits

Chapter 3. Medical Benefits

§315. Medicare and OGB

A. When an individual is covered by this plan and by Medicare, Medicare laws and regulations govern the order of benefit determination, that is, whether Medicare is the primary or secondary payer.

B. Except as provided in Subsection C (below), when an individual is covered by this plan and by Medicare, and:

1. this plan is the primary payer, benefits will be paid without regard to Medicare coverage;

2. Medicare is the primary payer, eligible expenses under this plan will be limited to the amount allowed by Medicare, less the amount paid or payable by Medicare. All provisions of this plan, including all provisions related to deductibles, co-insurance, limitations, exceptions, and exclusions will be applied.

C. The following applies to retirees and to covered spouses of retirees who attain or have attained the age of 65 on or after July 1, 2005.

1. Upon attainment of age 65, a retiree and/or the retiree's spouse may be eligible for Medicare if the retiree or the retiree's spouse has sufficient earnings credits.

2. A retiree or spouse of a retiree who attains or has attained age 65 when either has sufficient earnings credits to be eligible for Medicare, must enroll in Medicare Part A and Medicare Part B in order to receive benefits under this plan except as specifically provided in Paragraph 3, below.

3. If such retiree or spouse of a retiree is not enrolled in Medicare Part A and Medicare Part B, no benefits will be paid or payable under this plan except benefits payable as secondary to the part of Medicare in which the individual is enrolled.

4. A retiree and spouse of a retiree who do not have sufficient earnings credits to be eligible for Medicare must provide written verification from the Social Security Administration or its successor.

D. Retiree 100-Medicare COB—Upon enrollment and payment of the additional monthly premium, a plan member and dependents who are covered under Medicare Parts A and B (both) may choose to have full coordination of benefits with Medicare. Enrollment must be made within 30 days of eligibility for Medicare, or within 30 days of retirement if already eligible for Medicare, and at the annual enrollment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:801(C) and 802(B)(2).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Trustees of the State Employees Group Benefits Program, LR 25:1813 (October 1999), amended by the Office of the Governor, Division of Administration, Office of Group Benefits, LR 32:1862 (October 2006), LR 34:

Family Impact Statement

The proposed Rule has no known impact on family formation, stability, or autonomy.

Interested persons may present their views, in writing, to Tommy D. Teague, Chief Executive Officer, Office of Group Benefits, Box 44036, Baton Rouge, LA 70804, until 4:30 p.m. on Tuesday, February 26, 2008.

Tommy D. Teague
Chief Executive Officer

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: PPO and EPO Plans
of Benefits—Medicare**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

This rule change is being made to add clarification to the PPO plan document language and bring it into line with current interpretation and practice. The rule amends provisions of the PPO and EPO Plan Documents regarding OGB coverage and Medicare in order to enhance member understanding and to facilitate the administration of health care benefits effectively. The proposed modifications effect no substantive changes to the Plan Document and only serve to more clearly express the intent of the Medicare provision in accordance with OGB's existing administrative interpretation and application. It is anticipated \$3,000 in expenses will be incurred with the publishing of this rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Revenue collections of state and local governmental units will not be affected.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This rule should not directly impact any person or non-governmental group as it only serves to clarify plan document language contained in the PPO plan document to bring it into line with current interpretation and application. There should be no cost impact associated with this rule change.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Competition and employment will not be affected.

Tommy D. Teague
Chief Executive Officer
0801#042

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Health and Hospitals
Board of Medical Examiners**

Athletic Trainers—Certification and Practice
(LAC 46:XLV.3103-3162, and 5703)

Notice is hereby given, in accordance with R.S. 49:953, that the Louisiana State Board of Medical Examiners (board), pursuant to the authority vested in the board by the Louisiana Athletic Trainers Law, R.S. 37:3301-3312, the board's administrative rule making authority under the Louisiana Medical Practice Act, R.S. §§37:1261-1292, and in accordance with the provisions of the Administrative Procedure Act, intends to amend its rules governing athletic trainers, LAC 46:XLV, Subpart 2, Chapter 31, §§3103-3162, and Subpart 3, Chapter 57, §5703. The proposed Rule amendments: clarify that certification is synonymous with

licensure; eliminate a grandfather clause which has been extinguished by the passage of time; remove certain deadlines imposed upon applicants and the board respecting application filing and processing and simplify the application process; clarify the examination, administration and the passing score deemed acceptable by the board for certification consideration; and remove no longer relevant provisions and update and affect certain technical amendments to the existing rules. The proposed Rule amendments are set forth below.

**Title 46
PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

Part XLV. Medical Professions

Subpart 2. Licensure and Certification

Chapter 31. Athletic Trainers

Subchapter A. General Provisions

§3103. Definitions

A. - A.Board ...

Certification—the board's official recognition of a person's lawful authority to act and serve as an *athletic trainer* as such term is defined by the law, R.S. 37:3302. For purposes of this Chapter, the word *certification* is synonymous with the word *licensure*.

Certified—for purposes of this Chapter, the word *certified* is synonymous with the word *licensed*.

Certified Athletic Trainer—a person possessing a current certificate, duly issued by the board, evidencing the board's certification of such person under the law. For purposes of this Chapter, the term *certified athletic trainer* is synonymous with the term *licensed athletic trainer*.

* * *

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3301-3312 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, LR 12:522 (August 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 24:937 (May 1998), LR 34:

Subchapter B. Requirements and Qualifications for Certification

§3107. Requirements for Certification

A. - A.3.c. ...

4. take and successfully pass the written and/or oral certification examination administered by the NATA or its successor;

5. ...

6. satisfy the procedures and requirements for application and examination provided by this Chapter; and

A.7. - B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, 37:1281 and 37:3301-3312.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:522 (August 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 30:235 (February 2004), LR 34:

§3109. Alternative Qualification

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3301-3312.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, LR 12:523 (August 1986), repealed

by the Department of Health and Hospitals, Board of Medical Examiners, LR 34:

Subchapter C. Board Approval

§3113. Applicability of Approval

A. - C. ...

D. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3301-3312.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, LR 12:523 (August 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 34:

Subchapter D. Application

§3129. Application Procedure

A. ...

B. Application forms and instructions pertaining thereto may be obtained from the board.

C. An application for certification under this Chapter shall include:

1. proof, documented in a form satisfactory to the board, that the applicant possesses the qualifications for certification set forth in this Chapter; and

2. such other information and documentation as are referred to or specified in this Chapter, or as the board may require, to evidence qualification for certification.

D. The board may refuse to consider any application which is not complete in every detail, including submission of every document required by the application form. The board may, in its discretion, require a more detailed or complete response to any request for information set forth in the application form as a condition to consideration of an application.

E. Each application submitted to the board shall be accompanied by the applicable fee, as provided in Chapter 1 of these rules.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, 37:1281 and 37:3301-3312.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:524 (August 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 24:938 (May 1998), LR 30:235 (February 2004), LR 34:

Subchapter F. Examination

§3133. Designation of Examination

A. The examination administered and accepted by the board pursuant to R.S. 37:3303.B is the National Athletic Trainers Association Certification Examination developed by the NATA and the Professional Examination Service, or their successor(s).

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3301-3312.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, LR 12:524 (August 1986), amended LR 34:

§3135. Eligibility for Examination

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3301-3312.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, LR 12:524 (August 1986), repealed by the Department of Health and Hospitals, Board of Medical Examiners, LR 34:

§3137. Dates, Places of Examination

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3301-3312 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, LR 12:525 (August 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 24:938 (May 1998), repealed LR 34:

§3139. Administration of Examination

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3301-3312.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, LR 12:525 (August 1986), repealed by the Department of Health and Hospitals, Board of Medical Examiners, LR 34:

§3141. Subversion of Examination Process

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3301-3312.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, LR 12:525 (August 1986), repealed by the Department of Health and Hospitals, Board of Medical Examiners, LR 34:

§3143. Finding of Subversion

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3301-3312.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, LR 12:525 (August 1986), repealed by the Department of Health and Hospitals, Board of Medical Examiners, LR 34:

§3145. Sanctions for Subversion of Examination

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3301-3312.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, LR 12:525 (August 1986), repealed by the Department of Health and Hospitals, Board of Medical Examiners, LR 34:

§3147. Passing Score

A. An applicant will be deemed to have successfully passed the examination if he attains a score equivalent to that required by the NATA or its Professional Examination Service as a passing score; provided, however, that with respect to any given administration of the examination, the board may determine to accept a lower score as passing. Applicants for certification shall be required to authorize the NATA and the Professional Examination Service to release their testing scores to the board each time the applicant-examinee attempts the examination according to the procedures for such notification established by the NATA.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3301-3312.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, LR 12:525 (August 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 34:

§3151. Lost, Stolen, or Destroyed Examinations

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3301-3312.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, LR 12:526 (August 1986), repealed by the Department of Health and Hospitals, Board of Medical Examiners, LR 34:

**Subchapter G. Certificate Issuance, Termination,
Renewal, Reinstatement**

§3153. Issuance of Certificate

A. If the qualifications, requirements, and procedures prescribed or incorporated by §3107 and §3129 are met to the satisfaction of the board, the board shall issue to the applicant a certificate evidencing the applicant's certification as a certified athletic trainer in the state of Louisiana.

B. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3301-3312.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, LR 12:526 (August 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 34:

§3162. Restricted Certificates

A. - F.1.a. ...

b. the permit holder is issued a certificate to practice athletic training pursuant to §3153 of this Chapter; or

c. the holder of a permit issued under §3162.F fails to appear for and take the certification examination for which he has registered.

F.2. - G. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1261-1292, 37:1270, 37:3301-3312 and 37:3303.A(4).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 28:830 (April 2002), amended, LR 34:

Subpart 3. Practice

Chapter 57. Athletic Trainers

Subchapter A. General Provisions

§5703. General Definitions

A. - A.Board ...

Certification—the board's official recognition of a person's lawful authority to act and serve as an *athletic trainer* as such term is defined by the law, R.S. 37:3302. For purposes of this Chapter, the word *certification* is synonymous with the word *licensure*.

Certified—For purposes of this Chapter, the word *certified* is synonymous with the word *licensed*.

Certified Athletic Trainer—a person possessing a current certificate, duly issued by the board, evidencing the board's certification of such person under the law. For purposes of this Chapter, the term *certified athletic trainer* is synonymous with the term *licensed athletic trainer*.

* * *

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3301-3312.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, LR 12:526 (August 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 34:

The proposed Rule amendments have no known impact on family, formation, stability or autonomy, as described in R.S. 49:972.

Interested persons may submit written data, views, arguments, information or comments on the proposed Rule amendments to Rita Arceneaux, Confidential Executive Assistant, Louisiana State Board of Medical Examiners, at Post Office Box 30250, New Orleans, LA, 70190-0250 (630 Camp Street, New Orleans, LA, 70130), (504) 568-6820, Ex. 242. She is responsible for responding to inquiries concerning the proposed Rule amendments. Written

comments will be accepted until 4 p.m., February 19, 2008. A request pursuant to R.S. 49:953(A)(2) for oral presentation, argument or public hearing must be made in writing and received by the board within 20 days of the date of this notice.

Robert L. Marier, M.D.
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Athletic Trainers
Certification and Practice**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

Other than the rule publication costs, the total of which are estimated to be \$612 during FY 2008, it is not anticipated that the proposed rule amendments will result in any material costs to the Board of Medical Examiners or any state or local governmental unit.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There are no estimated effects on the Board's revenue collections or that of any other state or local governmental unit anticipated from the proposed rule amendments.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

It not anticipated that the proposed rule amendments will have any material effect on costs of athletic trainers, applicants or governmental groups. It is anticipated that the proposed rule amendments will result in an unquantifiable reduction in workload and paperwork of applicants, attributable to application simplification, filing, and processing.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

It is not anticipated that the proposed rule amendments will have any material impact on competition or employment in either the public or private sector.

Robert L. Marier, M.D.
Executive Director
0801#024

Robert E. Hosse
Staff Director
Legislative Fiscal Officer

NOTICE OF INTENT

**Department of Health and Hospitals
Board of Optometry Examiners**

Optometry Regulations (LAC 46:LI.107 and 503)

Notice is hereby given, in accordance with the Administrative Procedures Act, R.S. 49:950 et seq., that the Louisiana State Board of Optometry Examiners, pursuant to authority vested in the Louisiana State Board of Optometry Examiners by the Optometry Practice Act, R.S. 37:1041-1068, intends to amend Title 46, Part LI by adopting the following proposed amendments to the Sections set forth below.

The Louisiana State Board of Optometry Examiners proposes to amend Sections 107 and 503, Title 46, Part LI of the Louisiana Administrative Code by adoption of the following proposed amended Rules.

A preamble which explains the basis and rationale for the intended action, and summarizing the information and data

supporting the intended action has not been prepared. A description of the subjects and issues involved is as follows:

Section 107(B)(3) strikes "or", "applied" and "or oral antibiotic, and oral antihistamines" and adds "or other form", "used", and "or orally" within the definition of *Diagnostic and Therapeutic Agent* in order to conform the Rule to Act 66 of the 2007 Regular Session of the Louisiana Legislature which changed the definition.

Section 107(B)(3) strikes "including contact lenses" and adds "including plano and zero power contact lenses" and ",or for orthotic or prosthetic purposes, or cosmetic purposes with respect to the adaption of contact lenses" within the definition of *Optometry* in order to conform the rule to Act 596 of the 2006 Regular Session of the Louisiana Legislature which changed the definition.

Section 107(B)(3) strikes "incision and" and adds "and its adnexa" and ", provided, however, no optometrist shall carry out any such procedures referenced in this Paragraph unless certified by the board to treat those abnormal conditions and pathology of the human eye and its adnexa" within Clause iii of the definition of *Optometry* in order to conform the rule to Act 596 of the 2006 Regular Session of the Louisiana Legislature which changed the definition.

Section 503(G)(1) strikes "or oral antibiotics, or oral antihistamines" and adds, "or other form" and "when used topically or orally" and "diagnosis," within the definition of *Therapeutic Pharmaceutical Agents* in order to conform the Rule to Act 66 of the 2007 Regular Session of the Louisiana Legislature which changed the definition.

The proposed Rule is adopted in accordance with the Administrative Procedure Act, R.S. 49:950 et seq. The proposed Rule has no known fiscal or economic impact and no known impact on family functioning stability, or autonomy as described in R.S. 49:972.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part LI. Optometrists

Chapter 1. General Provisions

§107. Organization of the Board

A. Introduction. See the provision of the act relative to the organization of the board, in particular, R.S. 37:1041-1048.

B. Definitions

1. As used in this Chapter, the following terms have the meaning ascribed to them in this Section, unless the context clearly indicates otherwise.

2. Masculine terms shall include the feminine and, when the context requires, shall include partnership and/or professional corporations.

3. Where the context requires, singular shall include the plural or plural shall include the singular.

Act—the Optometry Practice Act, R.S. 37:1041 et seq.

Board—the Louisiana State Board of Optometry Examiners.

Diagnostic and Therapeutic Pharmaceutical Agent—any chemical in solution, suspension, emulsion, ointment base, or other form when used topically or orally that has the property of assisting in the diagnosis, prevention, treatment, or mitigation of abnormal conditions and pathology of the human eye and its adnexa, or those which may be used for such purposes, and certain approved narcotics, only when

used in treatment of disorders or diseases of the eye and its adnexa. Licensed pharmacists of this state shall fill prescriptions for such pharmaceutical agents of licensed optometrists certified by the board to use such pharmaceutical agents.

i. Any *diagnostic and therapeutic pharmaceutical agent* as defined above listed in Schedules III, IV and V of the Uniform Controlled Dangerous Substances Law shall be limited to use or to be prescribed by a licensed optometrist for a maximum of 48 hours when used in treatment or disorders or diseases of the eye and its adnexa.

ii. *Diagnostic and therapeutic pharmaceutical agent* shall not include any drug or other substances listed in Schedules I and II of the Uniform Controlled Dangerous Substances Law provided in R.S. 40:963 and 964 which shall be prohibited from use by a licensed optometrist.

iii. A licensed optometrist may prescribe one additional 48 hour prescription only if warranted by a follow-up exam.

Licensed Optometrist—a person licensed and holding a certificate issued under the provisions of the act.

Optometry—that practice in which a person employs primary eye care procedures or applies any means other than ophthalmic surgery for the measurement of the power and testing the range of vision of the human eye, and determines its accommodative and, refractive state, general scope of function, and the adaptation of frames and lenses, in all their phases, including plano and zero power contact lenses, to overcome errors of refraction and restore as near as possible normal human vision, or for orthotic or prosthetic purposes, or cosmetic purposes with respect to the adaption of contact lenses. Optometry also includes the examination and diagnosis, and treatment, other than by ophthalmic surgery, of abnormal conditions and pathology of the human eye and its adnexa, including the use and prescription of diagnostic and therapeutic pharmaceutical agents. Optometrists shall issue prescriptions, directions and orders regarding medications and treatments which may be carried out by other health care personnel including optometrists, physicians, dentists, osteopaths, pharmacists, nurses, and others.

i. *Ophthalmic Surgery*—a procedure upon the human eye or its adnexa in which in vivo human tissue is injected, cut, burned, frozen, sutured, vaporized, coagulated, or photodisrupted by the use of surgical instrumentation such as, but not limited to, a scalpel, cryoprobe, laser, electric cautery, or ionizing radiation. Nothing in this Optometry Practice Act shall limit an optometrist's ability to use diagnostic instruments utilizing laser or ultrasound technology in the performance of primary eye care. Only persons licensed to practice medicine by the Louisiana State Board of Medical Examiners under the laws of this state may perform ophthalmic surgery.

ii. Nothing in the Optometry Practice Act shall prohibit the dilation and irrigation of lacrimal ducts, insertion and removal of lacrimal plugs, foreign body removal from superficial ocular tissue, suture removal, removal of eyelashes, drainage of superficial lesions of the eye and its adnexa, or corneal shaping with external ophthalmic devices such as contact lenses by optometrists, provided, however, no optometrist shall carry out any such

procedures referenced in this Paragraph unless certified by the board to treat those abnormal conditions and pathology of the human eye and its adnexa.

C. Purpose. The purpose of the board is to regulate the practice of optometry in Louisiana and to carry out the purposes and enforce the provision of the law of Louisiana relating thereto. The laws of Louisiana relating to the practice of optometry are set forth, in part, in the Optometry Practice Act, R.S. 37:1041 et seq.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1048.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Optometry Examiners, LR 32:629 (April 2006), amended LR 34:

Chapter 5. Practicing Optometry

§503. License to Practice Optometry

A. - F.5. ...

G. Certification to Use Diagnostic and Therapeutic Drugs and to Treat Ocular Pathology. An optometrist may be certified to use ocular diagnostic and therapeutic pharmaceutical agents and to diagnose and treat ocular pathology. In order to obtain such certification, an optometrist shall comply with the following requirements.

1. Certification to Use Diagnostic Drugs

a. In order to be approved as an optometrist authorized to use diagnostic drugs, as set forth in Act 123 of the 1975 Session of the Louisiana Legislature, an optometrist shall present to the secretary of the Louisiana State Board of Optometry Examiners for approval by the board, the following:

i. evidence that the applicant is a licensed Louisiana optometrist, holding a current license in compliance with all license and renewal requirements of the Louisiana Optometry Practice Act for the year in which he applies for certification;

ii. transcript credits, in writing, evidencing that the applicant has completed a minimum of five university semester hours in pharmacology from an accredited university or college of optometry, subsequent to December 31, 1971. The pharmacology hours shall consist of a minimum of two hours in general pharmacology and a minimum of three hours in ocular pharmacology.

b. Upon submission of the above, the secretary shall present same to the board for approval at the next regular meeting. Upon approval by the board, the secretary shall cause to be issued to the optometrist a certificate indicating compliance with the legislative requirement and intent.

c. The certificate issued by the secretary shall be over the secretary's signature and bear a number identical to the number on the license originally issued by the board to the optometrist.

2. Certification to Treat Pathology and to Use and Prescribe Therapeutic Pharmaceutical Agents.

a. Definitions. For purposes of this Paragraph 2 the following definitions shall apply:

Application Date—the date the board receives in its office by certified mail an application for certification under this Paragraph 2.

Approved Educational Institution—an educational institution providing education in optometry that is approved by the board and is accredited by a regional or professional accrediting organization which is recognized or

approved by the Council of Post-Secondary Accreditation of the United States Department of Education.

Board—the Louisiana State Board of Optometry Examiners.

Therapeutic Pharmaceutical Agents—any chemical in solution, suspension, emulsion, ointment base, or other form that when used topically or orally has the property of assisting in the diagnosis, prevention, treatment, or mitigation of abnormal conditions and pathology of the human eye and its adnexa, or those which may be used for such purposes, and certain approved narcotics when used in the treatment of disorders or diseases of the eye and its adnexa.

* * *

G.2.b. - H.4. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1048.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Optometry Examiners, LR 32:632 (April 2006), amended LR 34:

Interested persons may submit written data, views, arguments, information or comments on the proposed Rule until 11:00 a.m., February 10, 2008, to Dr. James D. Sandefur, O.D., Louisiana State Board of Optometry Examiners, 115-B North 13th Street, Oakdale, Louisiana 71463. He is responsible for responding to inquiries regarding the proposed Rule.

James D. Sanderfur, O.D.
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Optometry Regulations

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

Other than the rule publication costs, which are estimated to be \$500 in FY 08, it is not anticipated that the proposed rule amendments will result in any material costs or savings to the Board of Optometry Examiners, any state unit or local governmental unit. Notification of these rule changes will be included in a mass mailing to all licensees, which has already been budgeted for notification of such rule changes.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule will have no effect on revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rules clarify and conform various definitions applicable to the practice of optometry relative to the provisions of Act 596 of the 2006 Regular Session and Act 66 of the 2007 Regular Session. The impact of these proposed rules is anticipated to be negligible and generally impact only licensed optometrists (approx. 500) to the extent that such optometrists must conform to the legislative parameters established by Act 596 and Act 66.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no estimated effect on competition and employment.

J. Graves Theus
Attorney
0801#028

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health and Hospitals Emergency Response Network Board

Louisiana Network Emergency Response Board
(LAC 48:I.18101, 18301-18305, and 18501-18507)

Notice is hereby given that the Department of Health and Hospitals, Louisiana Emergency Response Network Board, has exercised the provisions of R.S. 49:950 et seq., the Administrative Procedure Act, and intends to promulgate LAC 48:I.1801 et seq., initial rules and regulations of the Louisiana Emergency Response Network Board.

Pursuant to Act 248 of the 2004 Regular Session of the Louisiana Legislature, the Louisiana Emergency Response Network and Louisiana Response Network Board were created within the Department of Health and Hospitals. The Louisiana Emergency Response Network Board is authorized by R.S. 40:2844(H) to adopt rules and regulations for board governance, by R.S. 40:2845(A)(3)(a) to adopt rules and regulations to provide for duties and responsibilities of the nine regional commissions, and by R.S. 40:2846(A) to adopt rules and regulations to carry into effect the provisions of R.S. 40:2841 et seq. Pursuant to R.S. 40:2841, the legislative purpose of the Louisiana Emergency Response Network is to safeguard the public health, safety and welfare of the people of this state against unnecessary trauma and time-sensitive related deaths and incidents of morbidity due to trauma.

Title 48

PUBLIC HEALTH—GENERAL

Part I. General Administration

Subpart 15. Louisiana Emergency Response Network Board

Chapter 181. General Provisions

§18101. Scope

A. These rules are adopted by the Louisiana Emergency Network (hereinafter LERN) Board (hereinafter board) to effectuate the provisions of R.S. 40:2841 et seq.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2846(A).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Louisiana Emergency Response Network Board, LR 34:

Chapter 183. Louisiana Emergency Response Network (LERN) Board

§18301. Board Officers of Louisiana Emergency Response Network (LERN) Board

A. The chairman and vice-chairman, and any other officers that the board shall deem necessary, shall be elected for a two-year term at the first meeting held following January 1 of each even numbered year.

B. In the case of a vacancy in the office of chairman, the vice-chairman shall serve the remainder of the vacated term, and in the case of a vacancy in the office of vice-chairman, the board shall elect a new vice-chairman who shall serve the remainder of the vacated term.

C. The chairman shall:

1. preside at all meetings of the board;
2. determine necessary subcommittees and working group and appoint members to each subcommittee and working groups;

3. direct activities of staff between board meetings;
4. provide direction on behalf of board between meetings to all regional commissions;
5. designate the date, time and place of board meetings;
6. enter into confidentiality agreements on behalf of the board regarding pertinent data to be submitted to board and board staff which contain individually identifiable health or proprietary information;
7. perform all other duties as may be assigned by the board.

D. Should the chairman become unable to perform the duties of chairman, the vice-chairman shall act in his stead.

E. A ground for removal of a board officer includes conviction of a felony.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:2844(H) and 40:2846(A).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Louisiana Emergency Response Network Board, LR 34:

§18303. Quorum

A. Eight members of the board shall constitute a quorum for all purposes.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2844(H) and 40:2846(A).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Louisiana Emergency Response Network Board, LR 34:

§18305. Grounds for Removal of Board Members

A. Grounds for removal of board members include conviction of a felony.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2844(H) and 40:2846(A).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Louisiana Emergency Response Network Board, LR 34:

Chapter 185. Regional Commissions; Membership; Officers; Meetings; Duties and Responsibilities

§18501. Regional Commission Membership

A. Selection of Regional Commission Membership by Louisiana Emergency Response Network (LERN) Board

1. The process for selecting the regional commission members is as follows:

a. the LERN Board Chairman shall request in writing the name of a nominee to serve on each regional commission from each of the legislatively identified state organizations;

b. in the event there is more than one organization, state association or entity, each entity shall be requested to name a nominee and, once constituted, the commission shall choose from among the nominees; and

c. if no state or local organization exists in a category, but multiple nominees are identified in that category, the selection of the representative to serve on the regional commission will be determined by that category's group of nominees.

2. Once documentation is received from each organization or group, the compiled list of nominees is submitted to the board for ratification. The board shall appoint those selected by the various organizations.

B. Voting members of the regional commission may be added through a process employing the following steps:

1. majority vote of a quorum of voting members of the commission;

2. formal written request to LERN Board to add specified voting member, with reasons for adding. Such addition must represent a group which would enhance the working of the regional commission;

3. majority vote by LERN Board members at a meeting. If such a vote fails, the regional commission may appear in person at the following LERN Board meeting, where the subject will be revisited;

4. once an additional voting member is approved for one region, in order for other regions to add a member representing the same group, only a letter detailing the requirements of Paragraphs 1 through 3 above will be necessary to add the particular member. Board approval will not require an additional vote.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2845(A)(3)(a) and 40:2846(A).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Louisiana Emergency Response Network Board, LR 34:

§18503. Regional Commission Officers

A. Each regional commission shall select a chairman and vice chairman.

B. The chairman and vice-chairman, and any other officers that the commission shall deem necessary, shall be elected for a two-year term at the first meeting held following January 1 of each even numbered year.

C. In the case of a vacancy in the office of chairman, the vice-chairman shall serve as chairman for the remaining vacated term; and in the case of a vacancy in the office of vice-chairman, the regional commission shall elect a new vice-chairman who shall serve until the expiration of the vacated term.

D. The chairman shall:

1. preside at all meetings of the commission;

2. determine necessary ad hoc committees, appoint a commission member to chair each such committee, and provide for the commission as a whole to name the membership of the committee;

3. provide direction to the commission to implement the mandates of the LERN Board;

4. direct that a record of all meetings of the commission shall be kept and such records shall be retained as permanent records of the transactions of the commission; and

5. perform all other duties pertaining to the office of chairman of the commission or as may be assigned by the commission.

E. Should the chairman become unable to perform the duties of chairman, the vice-chairman shall act in his stead.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2845(A)(3)(a) and 40:2846(A).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Louisiana Emergency Response Network Board, LR 34:

§18505. Regional Commission Meetings

A. Meetings of the commission shall be noticed, convened and held not less frequently than quarterly during each calendar year and otherwise at the call of the chairman or on the written petition for a meeting signed by not less

than the number of members which would constitute a quorum of the commission. Meetings shall be held on such date and at such time and place as may be designated by the chairman.

B. One third of the currently serving members of the commission shall constitute a quorum for all purposes. All actions which the commission is empowered by law to take shall be effected by vote of not less than a majority of the members present at a meeting of the commission at which a quorum is present.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2845(A)(3)(a) and 40:2846(A).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Louisiana Emergency Response Network Board, LR 34:

§18507. Regional Commission Duties and Responsibilities

A. Each regional commission shall:

1. develop a written system plan for submission to LERN Board, which plan shall:

a. identify all resources available in the region for emergency and disaster preparedness and response;

b. be based on standard guidelines for comprehensive system development;

c. include all parishes within the region unless a specific parish portion thereof has been aligned within an adjacent region;

d. give an opportunity to all health care entities and interested specialty centers opportunity to participate in the planning process; and

e. address the following components:

i. injury prevention;

ii. access to the system;

iii. communications;

iv. pre-hospital triage criteria;

v. diversion policies;

vi. bypass protocols;

vii. regional medical control;

viii. facility triage criteria;

ix. inter-hospital transfers;

x. planning for the designation of trauma facilities, including the identification of the lead facility(ies); and

xi. a performance improvement program that evaluates processes and outcomes from a system perspective;

2. upon approval of the board, implement the system plan to include:

a. education of all entities about the plan components;

b. on-going review of resource, process, and outcome data; and

c. if necessary, revision and re-approval of the plan or plan components by LERN Board;

3. annually complete a regional needs assessment and conduct education and training within the region to meet the needs identified in the annual needs assessment;

4. develop and implement a regional performance improvement (PI) program plan;

5. develop and implement a regional injury prevention program;

6. at least quarterly, submit evidence of on-going activity, including meeting notices and minutes, to LERN Board; and

7. Annually submit a report to LERN Board which describes progress toward system development and demonstrates on-going activity;

B. Regional commission may request technical assistance from the LERN Board at any time.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2845(A)(3)(a) and 40:2846(A).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Louisiana Emergency Response Network Board, LR 34:

Family Impact Statement

The Louisiana Emergency Response Network Board hereby issues this Family Impact Statement pursuant to R.S. 49:972. These proposed initial rules will have no known or foreseeable impact on the stability of the family, the authority and rights of parents regarding the education and supervision of their children, family earnings and family budget, behavior and personal responsibility of children, or the ability of the family or a local government to perform the function as contained in the proposed Rules.

Interested persons may submit written comments to Eileen T. Mederos, Administrative Director, 8919 World Ministry Avenue, Suite C, Baton Rouge, LA 70810. All comments must be submitted by February 8, 2008.

Lester W. Johnson, M.D.
Chairman

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Louisiana Network Emergency Response Board

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The purpose of this proposed rule is to establish the rules and regulations for the Louisiana Emergency Response Network Board and the nine regional commissions that will operate under the board.

The proposed rule will result in an estimated cost of \$200 to publish the notice of intent and the rule in the Louisiana Register. There is no other cost associated with this rule because this rule only establishes the guidelines for how the board and commissions will operate. Persons serving on the board and commissions are volunteers and will not be compensated. Any expenses related to board or commission meetings will be addressed in a separate rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no estimated effect on revenue collections of state or local governmental units by this proposed rule.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There is no estimated cost and/or economic benefit to directly affected persons or non-governmental groups by this proposed rule.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no estimated effect on competition and employment by this proposed rule.

Celia Cangelosi
Attorney
0801#047

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health and Hospitals Office of Aging and Adult Services

Home and Community Based Services Waivers—Adult Day Health Care (LAC 50:XXI.Chapters 21-39)

The Department of Health and Hospitals, Office of Aging and Adult Services proposes to amend LAC 50:XXI.Chapters 21-39 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950, et seq.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing repromulgated the provisions governing home and community-based waiver services for adult day health care (*Louisiana Register*, Volume 30, Number 9). The Department of Health and Hospitals, Office of Aging and Adult Services subsequently amended the September 20, 2004 Rule to: 1) clarify procedures for the allocation of ADHC waiver opportunities; 2) amend the provisions governing the medical certification process to remove preadmission screening and annual resident review requirements; and 3) eliminate the use of the Title XIX Medical-Social Information Form (Form 90-L) (*Louisiana Register*, Volume 32, Number 12). The department promulgated an Emergency Rule to amend the December 20, 2006 Rule to: 1) redefine the target population; 2) establish provisions governing placement on the request for services registry; 3) clarify the comprehensive plan of care requirements; and 4) establish provider reporting requirements and admission and discharge criteria for the ADHC Waiver (*Louisiana Register*, Volume 33, Number 3). The department amended the provisions contained in the March 20, 2007 Emergency Rule to more precisely define the target population, establish explicit provisions governing placement on the request for services registry and admission and discharge criteria for the ADHC Waiver (*Louisiana Register*, Volume 33, Number 5). The May 20, 2007 Emergency Rule was amended to further clarify the provisions governing the ADHC Waiver Program (*Louisiana Register*, Volume 33, Number 8). The Office of Aging and Adult Services now proposes to amend the December 20, 2006 Rule to: 1) incorporate the provisions of the August 20, 2007 Emergency Rule; 2) remove the provisions governing the licensing standards for ADHC facilities which will be repromulgated in Title 48 of the *Louisiana Administrative*

Code; 3) establish support coordination as a separate service covered in the ADHC Waiver; 4) reduce the current ADHC rate paid to providers as a result of adding support coordination as a separate service since these services are currently reimbursed as part of the ADHC facility rate; and 5) establish transition services as a covered service under the ADHC Waiver.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part XXI. Home and Community Based Services

Waivers

Subpart 3. Adult Day Health Care

Chapter 21. General Provisions

§2101. Introduction

A. The Adult Day Health Care (ADHC) Waiver Program is a home and community-based services waiver designed to furnish medical supervision and direct care for five or more hours per day (exclusive of transportation time to and from the ADHC facility) on a regularly scheduled basis (for one or more days per week, or as specified in the plan of care) in a non-institutional, community-based setting to adults who are physically and/or mentally impaired. This waiver program expands the array of services available to functionally-impaired adults and helps to bridge the gap between independence and 24-hour institutional care by allowing these individuals to remain in their own homes and communities.

B. The target population for the ADHC Waiver Program includes individuals who:

1. are 65 years old or older; or
2. 22 to 64 years old and disabled according to Medicaid standards or the Social Security Administration's disability criteria; and
3. meet nursing facility level of care requirements.

C. The long-range goal for adult day health care services is the delay or prevention of long-term care facility placement. The more immediate goals of the Adult Day Health Care Waiver are to:

1. promote the individual's maximum level of independence;
 - a. - f. Repealed.
2. maintain the individual's present level of functioning as long as possible, preventing or delaying further deterioration;
3. restore and rehabilitate the individual to the highest possible level of functioning;
4. provide support and education for families and other caregivers;
5. foster socialization and peer interaction; and
6. serve as an integral part of the community services network and the long-term care continuum of services.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:2034 (September 2004), amended by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 34:

§2103. Request for Services Registry

A. The Department of Health and Hospitals, (DHH) is responsible for the maintenance of the Request for Services Registry, hereafter referred to as "the registry", for the Adult Day Health Care Waiver. An individual who wishes to have

his or her name placed on the registry shall contact a toll-free telephone number which shall be maintained by the department.

B. Individuals who desire placement on the ADHC Waiver registry shall be screened to determine whether they meet the requirements for a nursing facility level of care. Only individuals who meet this criterion will be added to the registry.

C. - D. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and pursuant to Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:2035 (September 2004), amended by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 32:2256 (December 2006), LR 34:

§2105. Definitions

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:2035 (September 2004), amended by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 32:2256 (December 2006), repealed LR 34:

§2105. Programmatic Allocation of Waiver

Opportunities

A. When funding is appropriated for a new ADHC Waiver opportunity or an existing opportunity is vacated, the department shall send a written notice to an individual on the registry indicating that a waiver opportunity is available. That individual shall be evaluated for a possible ADHC Waiver opportunity assignment.

B. Adult Day Health Care Waiver opportunities shall be offered based upon the date of first request for services, with priority given to individuals who are in nursing facilities but could return to their home if ADHC Waiver services are provided. Priority shall also be given to those individuals who have indicated that they are at imminent risk of nursing facility placement.

1. A person is considered to be at imminent risk of nursing facility placement when he:

- a. is likely to require admission to a nursing facility within the next 120 days;
- b. faces a substantial possibility of deterioration in mental condition, physical condition or functioning if either home and community-based services or nursing facility services are not provided within 120 days; or
- c. has a primary caregiver who has a disability or is age 70 or older.

C. Remaining waiver opportunities, if any, shall be offered on a first-come, first-serve basis to individuals who qualify for nursing facility level of care, but who are not at imminent risk of nursing facility placement.

D. If an applicant is determined to be ineligible for any reason, the next individual on the registry is notified and the process continues until an individual is determined eligible. An ADHC Waiver opportunity is assigned to an individual when eligibility is established and the individual is certified.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and pursuant to Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 34:

Chapter 23. Covered Services

§2301. Service Descriptions

A. The following services are available to recipients in the ADHC Waiver. All services must be provided in accordance with the approved comprehensive plan of care (CPOC). Reimbursement shall not be made for ADHC Waiver services provided prior to the department's approval of the CPOC.

1. Adult Day Health Care Services. This is a planned, diverse daily program of individual and group activities structured to provide mental stimulation and to enhance physical functioning while recipients are at the facility. An adult day health care facility shall, at a minimum, furnish the following services:

- a. individualized training or assistance with the activities of daily living (toileting, grooming, eating, ambulation, etc.);
- b. health and nutrition counseling;
- c. an individualized, daily exercise program;
- d. an individualized, goal directed recreation program;
- e. daily health education;
- f. medical care management which includes the development of an individualized service plan;
- g. one nutritionally balanced hot meal and two snacks served each day;
- h. nursing services that include the following individualized health services:
 - i. monitoring vital signs appropriate to the diagnosis and medication regimen of each recipient no less frequently than monthly;
 - ii. administering medications and treatments in accordance with physicians' orders;
 - iii. initiating and developing a self administration of medication plan for the ADHC facility which is individualized for each recipient for whom it is indicated; and
 - iv. serving as a liaison between the recipient and medical resources, including the treating physician; and

NOTE: All nursing services shall be provided in accordance with acceptable professional practice standards.

- i. transportation to and from the facility.

NOTE: If transportation services are not provided by the ADHC facility, the reimbursement rate shall be reduced accordingly.

2. Support Coordination. These services assist the recipient in gaining access to necessary waiver and Medicaid State Plan services as well as to medical, social, educational and other support services, regardless of the funding source for these services. The support coordination agency shall be responsible for the assessments, development of the CPOC, reassessments and the ongoing monitoring of services included in the recipient's approved CPOC.

a. All ADHC waiver recipients must receive support coordination services.

b. The support coordinator shall complete a CPOC which contains the type and number of services, including waiver and all other services, necessary to maintain the waiver recipient safely in the community.

i. Comprehensive plans of care must be completed and submitted timely in accordance with DHH policy and procedures.

3. Transition Intensive Support Coordination. These services assist recipients who are currently residing in a nursing facility, but who want to return to the community, in gaining access to the medical, social, educational and other support services (regardless of the funding source) necessary to transition into the community. During the transition period, the support coordination agency shall be responsible for an initial assessment, development of the CPOC, a reassessment (if applicable) and monitoring of services included in the recipient's approved CPOC.

a. Service Limitations. Provision of this service is limited to up to 4 months as approved by the department.

4. Transition Services. These services assist an individual, who has been approved for an ADHC Waiver opportunity, to leave a nursing facility and transition to a living arrangement in a private residence where the individual is directly responsible for his/her own living expenses.

a. Service Limitations. There is a \$1,500 lifetime maximum limit per individual.

B. Provider Qualifications

1. ADHC providers must possess a current, valid license issued by the Department of Health and Hospitals.

2. Support coordination providers must possess a current, valid license as a case management agency issued by the Department of Health and Hospitals.

C. An individual must require and maintain the need for two waiver services.

D. - I.5. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:2036 (September 2004), amended by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 34:

§2303. Individualized Service Plan

A. All services shall:

1. be provided according to the individual written plan of care which is reviewed and updated;
2. be a result of an interdisciplinary staffing in which the participant and direct care staff participate;
3. be written in terminology which all facility personnel can understand;
4. list the identified problems and needs of the participant for which intervention is indicated, as identified in assessments, progress notes and medical reports;
5. propose a reasonable, measurable short-term goal for each problem/need;
6. contain the necessary elements of the facility's self administration of medication plan, if applicable;
7. use the strengths of the recipient in developing approaches to problems;
8. specify the approaches to be used for each problem and that each approach is appropriate to effect positive change for that problem;
9. identify the staff member responsible for carrying out each approach;
10. project the resolution date or review date for each problem;
11. specify the frequency of each approach/service;

12. contain a sufficient explanation of why the participant would require 24-hour care were he/she not receiving ADHC services;

13. include the number of days and time of scheduled attendance each week;

14. include discharge as a goal;

15. be kept in the participant's record used by direct care staff.

A.16. - D.2. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:2038 (September 2004), amended by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 32:2257 (December 2006), LR 34:

§2305. Medical Certification Application Process

A. - D.2. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:2039 (September 2004), repealed by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 34:

§2307. Interdisciplinary Team

A. - C. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:2039 (September 2004), repealed by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 34:

§2309. Interdisciplinary Team Assessments

A. - D.2. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:2039 (September 2004), amended by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 32:2257 (December 2006), repealed LR 34:

§2311. Staffings

A. - D. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:2040 (September 2004), repealed by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 34:

§2313. Plan of Care

A. - B. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:2040 (September 2004), repealed by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 34:

§2315. Progress Notes

A. - B.6. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:2040 (September 2004), repealed by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 34:

§2317. Reporting Requirements

A. - B. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:2040 (September 2004), repealed by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 34:

Chapter 25. Admission and Discharge Criteria

§2501. Admission Criteria

A. Admission to the ADHC Waiver Program shall be determined in accordance with the following criteria:

1. initial and continued Medicaid financial eligibility;

2. initial and continued eligibility for a nursing facility level of care;

3. justification, as documented in the approved CPOC, that the ADHC Waiver services are appropriate, cost-effective and represent the least restrictive environment for the individual;

4. assurance that the health, safety and welfare of the individual can be maintained in the community with the provision of ADHC Waiver services.

B. Failure of the individual to cooperate in the eligibility determination process or to meet any of the criteria in §2501.A. above will result in denial of admission to the ADHC Waiver.

C. - D.13. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:2040 (September 2004), amended by the Department Of Hospitals, Office of Aging and Adult Services, LR 34:

§2503. Admission Denial or Discharge Criteria

A. Admission shall be denied or the recipient shall be discharged from the ADHC Waiver Program if any of the following conditions are determined.

1. The individual does not meet the criteria for Medicaid financial eligibility.

2. The individual does not meet the criteria for a nursing facility level of care.

3. The recipient resides in another state or has a change of residence to another state.

4. Continuity of services is interrupted as a result of the recipient not receiving and/or refusing ADHC Waiver services during a period of 30 consecutive days.

5. The health, safety and welfare of the individual cannot be assured through the provision of ADHC Waiver services.

6. The individual fails to cooperate in the eligibility determination process or in the performance of the CPOC.

7. It is not cost effective to serve the individual in the ADHC Waiver.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and pursuant to Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 34:

Chapter 27. Provider Participation

§2701. General Provisions

A. Each adult day health care facility shall enter into a provider agreement with the department to provide services which may be reimbursed by the Medicaid Program, and shall agree to comply with the provisions of this rule.

B. The provider agrees to not request payment unless the participant for whom payment is requested is receiving services in accordance with the ADHC Waiver Program provisions.

C. Any provider of services under the ADHC Waiver shall abide by and adhere to any federal or state laws, rules or any policy, procedures, or manuals issued by the department. Failure to do so may result in sanctions.

D. - G. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:2041 (September 2004), amended by the Department of Health and Hospitals, Office for Aging and Adult Services, LR 34:

§2703. Reporting Requirements

A. Support coordinators and ADHC facilities, including direct service staff, are obligated to report changes to the department that could affect the waiver recipient's eligibility including, but not limited to, those changes cited in the denial or discharge criteria.

B. Support coordinators and ADHC facilities, including direct service staff, are responsible for documenting the occurrence of incidents or accidents that affect the health, safety and welfare of the recipient and completing an incident report. The incident report shall be submitted to the department in accordance with the specified requirements.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and pursuant to Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 34:

§2705. Recordkeeping

A. An ADHC facility's employee records must contain the following documentation. Verification of:

1. the hours worked by individual employees:
 - a. records may be sign-in sheets or time cards, but shall indicate the date and hours worked;
 - b. records shall include all employees, even those persons employed on a contractual or consultant basis;
2. criminal background check;
3. employee orientation and in-service training; and
4. the employee's communicable disease screening.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 34:

Chapter 29. Reimbursement Methodology

Subchapter A. Provider Reimbursement

§2901. General Provisions

A. Adult Day Health Care Services. Facilities are reimbursed a per diem rate for services provided under a prospective payment system (PPS). The system is designed in a manner that recognizes and reflects the cost of direct care services provided. The reimbursement methodology is designed to improve the quality of care for all adult day health care waiver recipients by ensuring that direct care

services are provided at an acceptable level while fairly reimbursing the providers.

1. For dates of service on or after February 9, 2007, the facility-specific direct care price will be increased by \$1.11 to include a direct care service worker wage enhancement. It is the intent that this wage enhancement be paid to the direct care service workers.

2. Effective July 1, 2008, support coordination services previously provided by the ADHC facility and included in the per diem rate will no longer be the responsibility of the ADHC provider. Support coordination services shall be furnished as a separate service covered in the ADHC Waiver. As a result of the change in responsibilities, the rate paid to ADHC providers shall be adjusted accordingly.

a. Effective for dates of service on or after July 1, 2008, the per diem rate in effect on June 30, 2008 shall be reduced by \$4.67 per day, which is the cost of providing support coordination services separately.

b. This rate reduction will extend until such time that the ADHC facility's rate is rebased using cost reports that do not reflect the cost of delivering support coordination services.

B. Support Coordination and Transition Intensive Support Coordination Services. The reimbursement methodology for support coordination and transition intensive support coordination services shall be a fixed monthly rate for the provision of the core elements of case management services as described in LAC 50:XV §10301.

C. Transition Services. The reimbursement methodology for transition services shall be a prospective rate based on approved, reasonable costs for allowable transition expenses.

D. - E.1. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:2041 (September 2004), amended by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 32:2257 (December 2006), LR 34:

Subchapter B. Cost Reporting

§2903. Cost Report Requirements

A. ADHC facilities are required to file acceptable annual cost reports of all reasonable and allowable costs. The annual cost reports are the basis for determining reimbursement rates. An acceptable cost report is one that is prepared in accordance with the requirements of this §2903 and for which the facility has supporting documentation necessary for completion of a desk review or audit. The bureau or its designee will perform desk reviews of the cost reports. In addition to the desk review, a representative number of the facilities shall be subject to a full-scope, annual on-site audit.

1. A copy of all reports and statistical data must be retained by the facility for no less than five years following the date reports are submitted to the bureau.

2. A chart of accounts and an accounting system on the accrual basis or converted to the accrual basis at year end are required in the cost report preparation process.

3. All ADHC cost reports shall be filed with a fiscal year from July 1 through June 30.

B. The cost reporting forms and instructions developed by the bureau must be used by all ADHC facilities participating in the Louisiana Medicaid Program.

1. Hospital based and other provider based ADHC which use Medicare forms for step down in completing their ADHC Medicaid cost reports must submit copies of the applicable Medicare cost report forms also.

2. All amounts must be rounded to the nearest dollar and must foot and cross foot. Only per diem cost amounts will not be rounded. Cost reports submitted that have not been rounded in accordance with this policy will be returned and will not be considered as received until they are resubmitted.

C. Annual Reporting. Cost reports are to be filed on or before the last day of September following the close of the reporting period. Should the due date fall on a Saturday, Sunday, or an official state or federal holiday, the due date shall be the following business day. The cost report forms and schedules must be filed in duplicate together with two copies of the following documents:

1. a working trial balance that includes the appropriate cost report line numbers to which each account can be traced. This may be done by writing the cost report category and line numbers by each ending balance or by running a trial balance in cost report category and line number order that totals the account;

2. a depreciation schedule. The depreciation schedule which reconciles to the depreciation expense reported on the cost report must be submitted. If the facility files a home office cost report, copies of the home office depreciation schedules must also be submitted with the home office cost report. All hospital based facilities must submit two copies of a depreciation schedule that clearly shows and totals assets that are hospital only, ADHC only and shared assets;

3. an amortization schedule(s), if applicable;

4. a schedule of adjustment and reclassification entries;

5. a narrative description of purchased management services and a copy of contracts for managed services, if applicable;

6. for management services provided by a related party or home office, a description of the basis used to allocate the costs to providers in the group and to non-provider activities and copies of the cost allocation worksheet, if applicable. Costs included that are for related management/home office costs must also be reported on a separate cost report that includes an allocation schedule;

7. all allocation worksheets must be submitted by hospital-based facilities. The Medicare worksheets that must be attached by facilities using the Medicare forms for allocation are:

- a. A;
- b. A-6;
- c. A-7 parts I, II and III;
- d. A-8;
- e. A-8-1;
- f. B part I; and
- g. B-1.

D. Each copy of the cost report must have the original signatures of an officer or facility administrator on the certification. The cost report and related documents must be submitted to the address indicated on the cost report

instruction form. In order to avoid a penalty for delinquency, cost reports must be postmarked on or before the due date.

E. The facility will be notified when it is determined, upon initial review for completeness, that an incomplete or improperly completed cost report has been submitted. The facility will be allowed a specified amount of time to submit the requested information without incurring the penalty for a delinquent cost report.

1. For cost reports that are submitted by the due date, 10 working days from the date of the facility's receipt of the request for additional information will be allowed for the submission of the additional information.

2. For cost reports that are submitted after the due date, five working days from the date of the facility's receipt of the request for additional information will be allowed for the submission of the additional information.

a. An exception exists in the event that the due date comes after the specified number of days for submission of the requested information. In these cases, the provider will be allowed to submit the additional requested information on or before the due date of the cost report.

b. If requested additional information has not been submitted by the specified date, a second request for the information will be made. Requested information not received after the second request may not be subsequently submitted and shall not be considered for reimbursement purposes.

3. An appeal of the disallowance of the costs associated with the requested information may not be made. Allowable costs will be adjusted to disallow any expenses for which requested information is not submitted.

F. Accounting Basis. The cost report must be prepared on the accrual basis of accounting. If a facility is on a cash basis, it will be necessary to convert from a cash basis to an accrual basis for cost reporting purposes. Particular attention must be given to an accurate accrual of all costs at the year end for the equitable distribution of costs to the applicable period. Care must be given to the proper allocation of costs for contracts to the period covered by such contracts. Amounts earned, although not actually received, and amounts owed to creditors, but not paid, must be included in the reporting period.

G. Supporting Information. Providers are required to maintain adequate financial records and statistical data for proper determination of reimbursable costs.

1. Cost information must be current, accurate and in sufficient detail to support amounts reported in the cost report. This includes all ledgers, journals, records, and original evidences of cost (canceled checks, purchase orders, invoices, vouchers, inventories, time cards, payrolls, bases for apportioning costs, etc.) that pertain to the reported costs.

2. Census data reported on the cost report must be supportable by daily census records. Such information must be adequate and available for auditing.

3. Financial and statistical records must be maintained by the facility for five years from the date the cost report is submitted to the bureau.

H. Exceptions. Limited exceptions to the cost report filing requirements will be considered on an individual provider basis upon written request from the facility to the Bureau of Health Services Financing, Rate and Audit Review Section. If an exception is allowed, the facility must

attach a statement describing fully the nature of the exception for which prior written permission was requested and granted. Exceptions which may be allowed with written approval are as follows.

1. If the facility has been purchased or established during the reporting period, a partial year cost report may be filed in lieu of the required 12-month report.

2. If the facility experiences unavoidable difficulties in preparing the cost report by the prescribed due date, an extension may be requested prior to the due date. Requests for exception must contain a full statement of the cause of the difficulties that rendered timely preparation of the cost report impossible.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 34:

§2905. Billing Record Requirements

A. The provider shall maintain billing records in accordance with recognized fiscal and accounting procedures. Individual records shall be maintained for each recipient. These records shall meet the following criteria. Records shall:

1. clearly detail each charge and each payment made on behalf of the recipient;
2. be current and shall clearly reveal to whom charges were made and for whom payments were received;
3. itemize each billing entry; and
4. show the amount of each payment received and the date received.

B. The provider shall maintain supporting fiscal documents and other records necessary to ensure that claims are made in accordance with federal and state requirements.

C. Nonacceptable Descriptions. "Miscellaneous", "Other" and "Various", without further detailed explanation, are not acceptable descriptions for cost reporting purposes. If any of these are used as descriptions in the cost report, a request for information will not be made and the related line item expense will be automatically disallowed. The provider will not be allowed to submit the proper detail of the expense at a later date, and an appeal of the disallowance of the costs may not be made.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 34:

§2907. Cost Centers Components

A. Direct Care Costs. This component reimburses for in-house and contractual direct care staffing and fringe benefits and direct care supplies.

B. Care Related Costs. This component reimburses for in-house and contractual salaries and fringe benefits for activity and social services staff, raw food costs and care related supplies for activities and social services.

C. Administrative and Operating Costs. This component reimburses for in-house or contractual salaries and related benefits for administrative, dietary, housekeeping and maintenance staff. Also included are:

1. utilities;
2. accounting;
3. dietary;
4. housekeeping and maintenance supplies; and

5. all other administrative and operating type expenditures.

D. Property. This component reimburses for depreciation, interest on capital assets, lease expenses, property taxes and other expenses related to capital assets.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 34:

§2909. Cost Categories Included in the Cost Report

A. Direct Care (DC) Costs

1. Salaries, Aides—gross salaries of certified nurse aides and nurse aides in training.

2. Salaries, LPNs—gross salaries of nonsupervisory licensed practical nurses and graduate practical nurses.

3. Salaries, RNs—gross salaries of nonsupervisory registered nurses and graduate nurses (excluding director of nursing and resident assessment instrument coordinator).

4. Salaries, Social Services—gross salaries of nonsupervisory licensed social services personnel providing medically needed social services to attain or maintain the highest practicable physical, mental, or psychosocial well being of the residents.

5. Salaries, Activities—gross salaries of nonsupervisory activities/recreational personnel providing an ongoing program of activities designed to meet, in accordance with the comprehensive assessment, the interest and the physical, mental, and psychosocial well being of the recipients.

6. Payroll Taxes—cost of employer's portion of Federal Insurance Contribution Act (FICA), Federal Unemployment Tax Act (FUTA), State Unemployment Tax Act (SUTA), and Medicare tax for direct care employees.

7. Group Insurance, DC—cost of employer's contribution to employee health, life, accident and disability insurance for direct care employees.

8. Pensions, DC—cost of employer's contribution to employee pensions for direct care employees.

9. Uniform Allowance, DC—employer's cost of uniform allowance and/or uniforms for direct care employees.

10. Worker's Comp, DC—cost of worker's compensation insurance for direct care employees.

11. Contract, Aides—cost of aides through contract that are not facility employees.

12. Contract, LPNs—cost of LPNs and graduate practical nurses hired through contract that are not facility employees.

13. Contract, RNs—cost of RNs and graduate nurses hired through contract that are not facility employees.

14. Drugs, Over-the-Counter and Legend—cost of over-the-counter and legend drugs provided by the facility to its recipients. This is for drugs not covered by Medicaid.

15. Medical Supplies—cost of patient-specific items of medical supplies such as catheters, syringes and sterile dressings.

16. Medical Waste Disposal—cost of medical waste disposal including storage containers and disposal costs.

17. Other Supplies, DC—cost of items used in the direct care of residents which are not patient-specific such as recreational/activity supplies, prep supplies, alcohol pads, betadine solution in bulk, tongue depressors, cotton balls, thermometers, and blood pressure cuffs.

18. Allocated Costs, Hospital Based—the amount of costs that have been allocated through the step-down process from a hospital or state institution as direct care costs when those costs include allocated overhead.

19. Total Direct Care Costs—sum of the above line items.

B. Care Related Costs

1. Salaries—gross salaries for care related supervisory staff including supervisors or directors over nursing, social service and activities/recreation.

2. Salaries, Dietary—gross salaries of kitchen personnel including dietary supervisors, cooks, helpers and dishwashers.

3. Payroll Taxes—cost of employer's portion of Federal Insurance Contribution Act (FICA), Federal Unemployment Tax Act (FUTA), State Unemployment Tax Act (SUTA), and Medicare tax for care related employees.

4. Group Insurance, CR—cost of employer's contribution to employee health, life, accident and disability insurance for care related employees.

5. Pensions, CR—cost of employer's contribution to employee pensions for care related employees.

6. Uniform Allowance, CR—employer's cost of uniform allowance and/or uniforms for care related employees.

7. Worker's Comp, CR—cost of worker's compensation insurance for care related employees.

8. Barber and Beauty Expense—the cost of barber and beauty services provided to patients for which no charges are made.

9. Consultant Fees, Activities—fees paid to activities personnel, not on the facility's payroll, for providing advisory and educational services to the facility.

10. Consultant Fees, Nursing—fees paid to nursing personnel, not on the facility's payroll, for providing advisory and educational services to the facility.

11. Consultant Fees, Pharmacy—fees paid to a registered pharmacist, not on the facility's payroll, for providing advisory and educational services to the facility.

12. Consultant Fees, Social Worker—fees paid to a social worker, not on the facility's payroll, for providing advisory and educational services to the facility.

13. Consultant Fees, Therapists—fees paid to a licensed therapist, not on the facility's payroll, for providing advisory and educational services to the facility.

14. Food, Raw—cost of food products used to provide meals and snacks to recipients. Hospital based facilities must allocate food based on the number of meals served.

15. Food, Supplements—cost of food products given in addition to normal meals and snacks under a doctor's orders. Hospital based facilities must allocate food-supplements based on the number of meals served.

16. Supplies, CR—the costs of supplies used for rendering care related services to the patients of the facility. All personal care related items such as soap and other hygiene products administered by all staff must be included on this line.

17. Allocated Costs, Hospital Based—the amount of costs that have been allocated through the step-down process from a hospital or state institution as care related costs when those costs include allocated overhead.

18. Total Care Related Costs—the sum of the care related cost line items.

19. Contract, Dietary—cost of dietary services and personnel hired through contract that are not employees of the facility.

C. Administrative and Operating Costs (AOC)

1. Salaries, Administrator—gross salary of administrators excluding owners. Hospital based facilities must attach a schedule of the administrator's salary before allocation, the allocation method, and the amount allocated to the nursing facility.

2. Salaries, Assistant Administrator—gross salary of assistant administrators excluding owners.

3. Salaries, Housekeeping—gross salaries of housekeeping personnel including housekeeping supervisors, maids and janitors.

4. Salaries, Laundry—gross salaries of laundry personnel.

5. Salaries, Maintenance—gross salaries of personnel involved in operating and maintaining the physical plant, including maintenance personnel or plant engineers.

6. Salaries, Drivers—gross salaries of personnel involved in transporting clients to and from the facility.

7. Salaries, Other Administrative—gross salaries of other administrative personnel including bookkeepers, receptionists, administrative assistants and other office and clerical personnel.

8. Salaries, Owner or Owner/Administrator—gross salaries of all owners of the facility that are paid through the facility.

9. Payroll Taxes—cost of employer's portion of Federal Insurance Contribution Act (FICA), Federal Unemployment Tax Act (FUTA), State Unemployment Tax Act (SUTA), and Medicare tax for administrative and operating employees.

10. Group Insurance, AOC—cost of employer's contribution to employee health, life, accident and disability insurance for administrative and operating employees.

11. Pensions, AOC—cost of employer's contribution to employee pensions for administration and operating employees.

12. Uniform Allowance, AOC—employer's cost of uniform allowance and/or uniforms for administration and operating employees.

13. Worker's Compensation, AOC—cost of worker's compensation insurance for administration and operating employees.

14. Contract, Housekeeping—cost of housekeeping services and personnel hired through contract that are not employees of the facility.

15. Contract, Laundry—cost of laundry services and personnel hired through contract that are not employees of the facility.

16. Contract, Maintenance—cost of maintenance services and persons hired through contract that are not employees of the facility.

17. Consultant Fees, Dietician—fees paid to consulting registered dietitians.

18. Accounting Fees—fees incurred for the preparation of the cost report, audits of financial records, bookkeeping, tax return preparation of the adult day health care facility

and other related services excluding personal tax planning and personal tax return preparation.

19. Amortization Expense, Non-Capital—costs incurred for legal and other expenses when organizing a corporation must be amortized over a period of 60 months.

a. Amortization of costs attributable to the negotiation or settlement of the sale or purchase of any capital asset on or after July 18, 1984, whether by acquisition or merger, for which any payment has previously been made is a nonallowable cost.

b. If allowable cost is reported on this line, an amortization schedule must be submitted with the cost report.

20. Bank Service Charges—fees paid to banks for service charges, excluding penalties and insufficient funds charges.

21. Dietary Supplies—costs of consumable items such as soap, detergent, napkins, paper cups, straws, etc., used in the dietary department.

22. Dues—dues to one organization are allowable.

23. Educational Seminars and Training—the registration cost for attending educational seminars and training by employees of the facility and costs incurred in the provision of in-house training for facility staff, excluding owners or administrative personnel.

24. Housekeeping Supplies—cost of consumable housekeeping items including waxes, cleaners, soap, brooms and lavatory supplies.

25. Insurance, Professional Liability and Other—includes the costs of insuring the facility against injury and malpractice claims.

26. Interest Expense, Non-Capital and Vehicles—interest paid on short term borrowing for facility operations.

27. Laundry Supplies—cost of consumable goods used in the laundry including soap, detergent, starch and bleach.

28. Legal Fees—only actual and reasonable attorney fees incurred for nonlitigation legal services related to patient care are allowed.

29. Linen Supplies—cost of sheets, blankets, pillows, gowns, underpads and diapers (reusable and disposable).

30. Miscellaneous—costs incurred in providing facility services that cannot be assigned to any other line item on the cost report. Examples of miscellaneous expense are small equipment purchases, all employees' physicals and shots, nominal gifts to all employees, such as a turkey or ham at Christmas, allowable advertising, and flowers purchased for the enjoyment of the recipients. Items reported on this line must be specifically identified.

31. Management Fees and Home Office Costs—the cost of purchased management services or home office costs incurred that are allocable to the provider. Costs included that are for related management/home office costs must also be reported on a separate cost report that includes an allocation schedule.

32. Nonemergency Medical Transportation—the cost of purchased nonemergency medical transportation services including, but not limited to, payments to employees for use of personal vehicle, ambulance companies and other transportation companies for transporting patients of the facility.

33. Office Supplies and Subscriptions—cost of consumable goods used in the business office such as:

a. pencils, paper and computer supplies;

b. cost of printing forms and stationery including, but not limited to, nursing and medical forms, accounting and census forms, charge tickets, facility letterhead and billing forms;

c. cost of subscribing to newspapers, magazines and periodicals.

34. Postage—cost of postage, including stamps, metered postage, freight charges and courier services.

35. Repairs and Maintenance—supplies and services, including electricians, plumbers, extended service agreements, etc., used to repair and maintain the facility building, furniture and equipment except vehicles. This includes computer software maintenance.

36. Taxes and Licenses—the cost of taxes and licenses paid that are not included on any other line on Form 6. This includes tags for vehicles, licenses for facility staff (including nurse aide recertifications) and buildings.

37. Telephone and Communications—cost of telephone services, wats lines and fax services.

38. Travel—cost of travel (airfare, lodging, meals, etc.) by the administrator and other authorized personnel to attend professional and continuing educational seminars and meetings or to conduct facility business. Commuting expenses and travel allowances are not allowable.

39. Vehicle Expenses—vehicle maintenance and supplies, including gas and oil.

40. Utilities—cost of water, sewer, gas, electric, cable TV and garbage collection services.

41. Allocated Costs, Hospital Based—costs that have been allocated through the step-down process from a hospital as administrative and operating costs.

42. Total Administrative and Operating Costs

D. Property and Equipment

1. Amortization Expense, Capital—legal and other costs incurred when financing the facility must be amortized over the life of the mortgage.

a. Amortization of goodwill is not an allowable cost. Amortization of costs attributable to the negotiation or settlement of the sale or purchase of any capital asset on or after July 18, 1984, whether by acquisition or merger, for which any payment has previously been made is a nonallowable cost.

b. If allowable cost is reported on this line, an amortization schedule must be submitted with the cost report.

2. Depreciation—depreciation on the facility's buildings, furniture, equipment, leasehold improvements and land improvements.

3. Interest Expense, Capital—interest paid or accrued on notes, mortgages, and other loans, the proceeds of which were used to purchase the facility's land, buildings and/or furniture, equipment and vehicles.

4. Property Insurance—cost of fire and casualty insurance on facility buildings, equipment and vehicles. Hospital-based facilities and state-owned facilities must allocate property insurance based on the number of square feet.

5. Property Taxes—taxes levied on the facility's buildings, equipment and vehicles. Hospital-based facilities and state-owned facilities must allocate property insurance based on the number of square feet.

6. Rent, Building—cost of leasing the facility's real property.

7. Rent, Furniture and Equipment—cost of leasing the facility's furniture and equipment, excluding vehicles.

8. Lease, Automotive—cost of leases for vehicles used for recipient care. A mileage log must be maintained. If a leased vehicle is used for both recipient care and personal purposes, cost must be allocated based on the mileage log.

9. Allocated Costs, Hospital Based—costs that have been allocated through the step-down process from a hospital or state institution as property costs when those costs include allocated overhead.

10. Total Property and Equipment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 34:

§2911. Allowable Costs

A. Allowable costs include those costs incurred by providers to conform to state licensure and federal certification standards. General cost principles are applied during the desk review and audit process to determine allowable costs.

1. These general cost principles include determining whether the cost is:

a. ordinary, necessary, and related to the delivery of care;

b. what a prudent and cost conscious business person would pay for the specific goods or services in the open market or in an arm's length transaction; and

c. for goods or services actually provided to the facility.

B. Through the desk review and/or audit process, adjustments and/or disallowances may be made to a facility's reported costs. The Medicare Provider Reimbursement Manual is the final authority for allowable costs unless the department has set a more restrictive policy.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 34:

§2913. Nonallowable Costs

A. Costs that are not based on the reasonable cost of services covered under Medicare and are not related to the care of recipients are considered nonallowable costs.

B. Reasonable cost does not include the following:

1. costs not related to recipient care;

2. costs specifically not reimbursed under the program;

3. costs that flow from the provision of luxury items or services (items or services substantially in excess or more expensive than those generally considered necessary for the provision of the care);

4. costs that are found to be substantially out of line with other facilities that are similar in size, scope of services and other relevant factors;

5. cost exceeding what a prudent and cost-conscious buyer would incur to purchase the goods or services.

C. General nonallowable costs are:

1. services for which Medicaid recipients are charged a fee;

2. depreciation of non-recipient care assets;

3. services that are reimbursable by other state or federally funded programs;

4. goods or services unrelated to recipient care; or

5. unreasonable costs.

D. Specific nonallowable costs include, but are not limited to:

1. advertising—costs of advertising to the general public that seeks to increase recipient utilization of the ADHC facility;

2. bad debts—accounts receivable that are written off as not collectible;

3. contributions—amounts donated to charitable or other organizations;

4. courtesy allowances;

5. director's fees;

6. educational costs for clients;

7. gifts;

8. goodwill or interest (debt service) on goodwill;

9. costs of income producing items such as fund raising costs, promotional advertising, or public relations costs and other income producing items;

10. income taxes, state and federal taxes on net income levied or expected to be levied by the federal or state government;

11. insurance, officers—cost of insurance on officers and key employees of the facility when the insurance is not provided to all employees;

12. judgments or settlements of any kind;

13. lobbying costs or political contributions, either directly or through a trade organization;

14. non-recipient entertainment;

15. non-Medicaid related care costs—costs allocated to portions of a facility that are not licensed as the reporting ADHC or are not certified to participate in Title XIX;

16. officers' life insurance with the facility or owner as beneficiary;

17. payments to the parent organization or other related party;

18. penalties and sanctions—penalties and sanctions assessed by the Centers for Medicare and Medicaid Services, the Internal Revenue Service or the state Tax Commission and insufficient funds charges;

19. personal comfort items; and

20. personal use of vehicles.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 34:

§2915. Audits

A. Each facility shall file an annual facility cost report and, if applicable, a central office cost report.

B. The facility shall be subject to financial and compliance audits.

C. All facilities that elect to participate in the Medicaid Program shall be subject to audit by state or federal regulators or their designees. Audit selection shall be at the discretion of the department.

1. The department conducts desk reviews of all of the cost reports received and also conducts on-site audits of facility cost reports.

2. The records necessary to verify information submitted to the department on Medicaid cost reports, including related-party transactions and other business activities engaged in by the provider, must be accessible to the department's audit staff.

D. In addition to the adjustments made during desk reviews and on-site audits, the department may exclude or adjust certain expenses in the cost report data base in order to base rates on the reasonable and necessary costs that an economical and efficient provider must incur.

E. The facility shall retain such records or files as required by the department and shall have them available for inspection for five years from the date of service or until all audit exceptions are resolved, whichever period is longer.

F. If a facility's audit results in repeat findings and adjustments, the department may:

1. withhold vendor payments until the facility submits documentation that the non-compliance has been resolved;

2. exclude the facility's cost from the database used for rate setting purposes; and

3. impose civil monetary penalties until the facility submits documentation that the non-compliance has been resolved.

G. If the department's auditors determine that a facility's financial and/or census records are unauditible, the vendor payments may be withheld until the facility submits auditible records. The provider shall be responsible for costs incurred by the department's auditors when additional services or procedures are performed to complete the audit.

H. Vendor payments may also be withheld under the following conditions:

1. a facility fails to submit corrective action plans in response to financial and compliance audit findings within 15 days after receiving the notification letter from the department; or

2. a facility fails to respond satisfactorily to the department's request for information within 15 days after receiving the department's notification letter.

I. The facility provider shall cooperate with the audit process by:

1. promptly providing all documents needed for review;

2. providing adequate space for uninterrupted review of records;

3. making persons responsible for facility records and cost report preparation available during the audit;

4. arranging for all pertinent personnel to attend the closing conference;

5. insuring that complete information is maintained in client's records;

6. developing a plan of correction for areas of noncompliance with state and federal regulations immediately after the exit conference time limit of 30 days.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 34:

Subchapter C. Rate Determination

§2917. Cost Determination Definitions

Adjustment Factor—computed by dividing the value of the index for December of the year preceding the rate year by the value of the index one year earlier (December of the second preceding year).

Base Rate—calculated in accordance with §2915.B.5, plus any base rate adjustments granted in accordance with §2915.B.7 which are in effect at the time of calculation of new rates or adjustments.

Base Rate Components—the base rate is the summation of the following:

- a. direct care;
- b. care related costs;
- c. administrative and operating costs;
- d. property costs.

Indices—

a. *CPI, All Items*—the Consumer Price Index for All Urban Consumers-South Region (All Items line) as published by the United States Department of Labor.

b. *CPI, Medical Services*—the Consumer Price Index for All Urban Consumers-South Region (Medical Services line) as published by the United States Department of Labor.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 34:

§2919. Rate Determination Process

A. The base rate is calculated based on the most recent audited or desk reviewed cost for all ADHC providers filing acceptable full year cost reports.

B. Audited and desk reviewed costs for each component are ranked by facility to determine the value of each component at the median.

C. The median costs for each component are multiplied in accordance with §2919.D.1 then by the appropriate economic adjustment factors for each successive year to determine base rate components.

1. For subsequent years, the components thus computed become the base rate components to be multiplied by the appropriate economic adjustment factors, unless they are adjusted as provided in §2919.G below.

2. Application of an inflationary adjustment to reimbursement rates in non-rebasing years shall apply only when the state legislature allocates funds for this purpose. The inflationary adjustment shall be made prorating allocated funds based on the weight of the rate components.

D. The inflated median shall be increased to establish the base rate median component as follows.

1. The inflated direct care median shall be multiplied times 115 percent to establish the direct care base rate component.

2. The inflated care related median shall be multiplied times 105 percent to establish the care related base rate component.

3. The administrative and operating median shall be multiplied times 105 percent to establish the administrative and operating base rate component.

E. At least every three years, audited and desk reviewed cost report items will be compared to the rate components calculated for the cost report year to insure that the rates remain reasonably related to costs.

F. Formulae. Each median cost component shall be calculated as follows.

1. **Direct Care Cost Component.** Direct care per diem costs from all acceptable full year cost reports, except those for which an audit disclaimer has been issued, shall be arrayed from lowest to highest. The cost at the midpoint of

the array shall be the median cost. Should there be an even number of arrayed cost, an average of the two midpoint facilities shall be the median cost. The median cost shall be trended forward using the Consumer Price Index for Medical Services. The direct care rate component shall be set at 115 percent of the inflated median.

2. Care Related Cost Component. Care related per diem costs from all acceptable full year cost reports, except those for which an audit disclaimer has been issued, shall be arrayed from lowest to highest. The cost of the facility at the midpoint of the array shall be the median cost. Should there be an even number of arrayed cost, an average of the two midpoint facilities shall be the median cost. The median cost shall be trended forward using the Consumer Price Index for All Items. The care related rate component shall be set at 105 percent of the inflated median.

3. Administrative and Operating Cost Component. Administrative and operating per diem cost from all acceptable full year cost reports, except those for which an audit disclaimer has been issued, shall be arrayed from lowest to highest. The cost of the midpoint of the array shall be the median cost. Should there be an even number of arrayed cost, an average of the two midpoint facilities shall be the median cost. The median cost shall be trended forward by dividing the value of the CPI-All Items index for December of the year proceeding the base rate year by the value of the index for the December of the year preceding the cost report year. The administrative and operating rate component shall be set at 105 percent of the inflated median.

4. Property Cost Component. The property per diem costs from all acceptable full year cost reports, except those for which an audit disclaimer has been issued, shall be arrayed from lowest to highest. The cost at the midpoint of the array shall be the median cost. This will be the rate component. Inflation will not be added to property costs.

G. Interim Adjustments to Rates. If an unanticipated change in conditions occurs that affects the cost of at least 50 percent of the enrolled ADHC providers by an average of five percent or more, the rate may be changed. The department will determine whether or not the rates should be changed when requested to do so by 25 percent or more of the enrolled providers, or an organization representing at least 25 percent of the enrolled providers. The burden of proof as to the extent and cost effect of the unanticipated change will rest with the entities requesting the change. The department may initiate a rate change without a request to do so. Changes to the rates may be temporary adjustments or base rate adjustments as described below.

1. Temporary Adjustments. Temporary adjustments do not affect the base rate used to calculate new rates.

a. Changes Reflected in the Economic Indices. Temporary adjustments may be made when changes which will eventually be reflected in the economic indices, such as a change in the minimum wage, a change in FICA or a utility rate change, occur after the end of the period covered by the indices, i.e., after the December preceding the rate calculation. Temporary adjustments are effective only until the next annual base rate calculation.

b. Lump Sum Adjustments. Lump sum adjustments may be made when the event causing the adjustment requires a substantial financial outlay, such as a change in certification standards mandating additional equipment or

furnishings. Such adjustments shall be subject to the bureau's review and approval of costs prior to reimbursement.

2. Base Rate Adjustment. A base rate adjustment will result in a new base rate component value that will be used to calculate the new rate for the next fiscal year. A base rate adjustment may be made when the event causing the adjustment is not one that would be reflected in the indices.

H. Provider Specific Adjustment. When services required by these provisions are not made available to the recipient by the provider, the department may adjust the prospective payment rate of that specific provider by an amount that is proportional to the cost of providing the service. This adjustment to the rate will be retroactive to the date that is determined by the department that the provider last provided the service and shall remain in effect until the department validates, and accepts in writing, an affidavit that the provider is then providing the service and will continue to provide that service.

I. Cost Settlement. The direct care cost component shall be subject to cost settlement. The direct care floor shall be equal to 90 percent of the median direct care rate component trended forward for direct care services (plus 90 percent of any direct care incentive added to the rate). The Medicaid Program will recover the difference between the direct care floor and the actual direct care amount expended. If a provider receives an audit disclaimer, the cost settlement for that year will be based on the difference between the direct care floor and the lowest direct care per diem of all facilities in the most recent audited and/or desk reviewed database trended forward to the rate period related to the disclaimer.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 34:

§2921. Exclusions from the Database

A. The following facilities shall be excluded from the database used to calculate the rates:

1. facilities with disclaimed audits; and
2. facilities with cost reports for periods other than a 12-month period.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 34:

Chapter 31. Reimbursement

Subchapter A. Prospective Payment System

§3101. General Provisions

A. - H. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:2042 (September 2004), repealed by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 34:

§3103. Cost Reporting

A. - I.3. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:2043 (September 2004), repealed by the

Department of Health and Hospitals, Office of Aging and Adult Services, LR 34:

§3105. Cost Categories Included in Cost Report

A. - D.10. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:2045 (September 2004), repealed by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 34:

§3107. Nonallowable Costs

A. - D.20. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:2047 (September 2004), repealed by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 34:

§3109. Provider Reimbursement

A. - B.8.b. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:2048 (September 2004), repealed by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 34:

Subchapter B. Admission Assessment/Vendor Payment

§3121. BHSF Admission Assessment/Vendor Payment

A. - H.2. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:2049 (September 2004), repealed by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 34:

Chapter 33. Quality Assurance Monitoring

§3301. Utilization Review

A. - H.2.m. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:2050 (September 2004), repealed by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 34:

§3303. Inspection of Care

A. - G.17. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:2051 (September 2004), repealed by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 34:

§3305. Discharge Planning and Implementation

A. - G.5.b.Note. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:2053 (September 2004), repealed by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 34:

Chapter 35. Appeals

§3501. General Procedures

A. - B.3. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:2055 (September 2004), repealed by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 34:

§3503. Evidentiary Hearing

A. - G.2. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:2056 (September 2004), repealed by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 34:

Chapter 37. Audits

§3701. Audits

A. - D. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:2057 (September 2004), repealed by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 34:

Chapter 39. Sanctions

§3901. Compliance with Standards for Participation

A. - D. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:2058 (September 2004), repealed by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 34:

Implementation of the provisions of this proposed Rule shall be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services.

Family Impact Statement

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule will have a positive effect on family functioning, stability, or autonomy as described in R.S. 49:972 as it will allow more flexibility and utilization of services for recipients in the ADHC Waiver.

Interested persons may submit written comments to Hugh Eley, Office of Aging and Adult Services, P.O. Box 2031, Baton Rouge, LA 70821-2031. He is responsible for responding to inquiries regarding this proposed Rule. A

public hearing on this proposed Rule is scheduled for Tuesday, February 26, 2008 at 9:30 a.m. in Room 118, Bienville Building, 628 North 4th Street, Baton Rouge, LA. At that time all interested individuals will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for the receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Roxane A. Townsend, M.D.
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Home and Community Based Services
Waivers—Adult Day Health Care**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that implementation of this proposed rule will have no programmatic fiscal impact to the state other than the cost of promulgation for FY 07-08. The ADHC rate currently paid to providers includes support coordination type services. The ADHC facility rate will be reduced to offset the cost of establishing support coordination as a separate service in the ADHC Waiver program. It is anticipated that \$3,400 (\$1,700 SGF and \$1,700 FED) will be expended in FY 07-08 for the state's administrative expense for promulgation of this proposed rule and the final rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that the implementation of this proposed rule will not affect federal revenue collections other than the federal share of the promulgation costs for FY 07-08. It is anticipated that \$1,700 will be collected in FY 07-08 for the federal share of the expense for promulgation of this proposed rule and the final rule.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This rule proposes to amend the provisions governing the ADHC Waiver to: 1) incorporate the provisions of the August 20, 2007 Emergency Rule; 2) remove the provisions governing the licensing standards for ADHC facilities which will be repromulgated in Title 48 of the Louisiana Administrative Code; 3) establish support coordination as a separate service covered in the ADHC Waiver; and 4) reduce the current ADHC rate paid to providers as a result of adding support coordination as a separate service since these services are currently reimbursed as part of the ADHC facility rate. It is anticipated that implementation of this proposed rule will not have estimable cost or economic benefits for directly affected persons or non-governmental groups in FY 07-08, FY 08-09, and FY 09-10.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This rule has no known effect on competition and employment.

Jerry Phillips
Medicaid Director
0801#088

Robert E. Hosse
Staff Director
Legislative Fiscal Office

**NOTICE OF INTENT
Department of Health and Hospitals
Office of Public Health
Center for Environmental Health**

General Provisions
(LAC 51:I.101, 105, 107, 109, 111, 119, and 125)

In accordance with the Louisiana Administrative Procedure Act, R.S. 49:950 et seq., the state health officer acting through the Department of Health and Hospitals, Office of Public Health, Center for Environmental Health Services, pursuant to the authority in R.S. 40:4(A) and R.S. 40:5 intends to amend the Louisiana Administrative Code (LAC), Title 51 (Public Health—Sanitary Code), Part I (General Provisions). The proposed Rule is necessary in order to clarify that administrative enforcement procedures and compliance orders may be applied against any person who violates the provisions of the Louisiana State Sanitary Code including, but not limited to, the operator, owner, manager, lessee or their agent, or person in charge of an establishment, facility, or property. The proposed Rule attempts to clarify the administrative enforcement procedure/compliance order process in order to ensure that due process is being properly afforded to the parties regulated under the state sanitary code. Finally, the proposed rule enacts §119.C.1 and §125 of Part I since these regulations were inadvertently repealed when Chapter 1 of the Louisiana State Sanitary Code was repealed, re-enacted, and codified into the LAC format as Part I on October 20, 2001 (see LR 27:1693). These inadvertently repealed regulations were originally promulgated on April 20, 1992 (LR 18:386) and on April 20, 1997 (LR 23:412).

**Title 51
PUBLIC HEALTH—SANITARY CODE
Part I. General Provisions
Chapter 1. General
§101. Definitions
[formerly paragraph 1:001]**

- A. ...
B. Unless otherwise specifically provided herein, the following words and terms used in this Chapter are defined for the purposes thereof as follows.

Code—State Sanitary Code.

Compliance Order—a written notice issued by the state health officer and the secretary of the department, which documents violation(s) of the code and references the provision(s) of the code violated, to the owner, manager, lessee or their agent, of an establishment, facility or property, and specifies a time frame for compliance. The compliance order shall be issued after violation(s) have been documented in an inspection and the same violation(s) continue and are documented in a reinspection. The compliance order shall inform the aggrieved party of the possible penalties for failure to comply with the compliance order and the right of the aggrieved party to an administrative appeal to the Division of Administrative Law. Nothing herein shall be interpreted to prohibit the state

health officer and the secretary of the department to issue a written notice documenting violation(s) of the code, referencing the provision(s) of the code violated and specifying a time frame for compliance to such other persons as they deem necessary to aid in the enforcement of the provisions of the code, including orders modifying, suspending, or revoking permits, variances, or exemptions, and orders requiring persons to comply with a rule, regulation, schedule or other requirement of the state health officer.

* * *

Department—the Department of Health and Hospitals.

* * *

Notice of Violation—a written notice issued to the owner, manager, lessee or their agent of an establishment, facility or property which documents the nature of the violation(s) of the code, including a reference to the provision(s) of the code which have been violated, which were observed during an inspection or investigation by a representative of the state health officer. This term shall also include a written notice issued to such other persons as may be deemed necessary who have violated or have been alleged to violate the provisions of this code when such notice documents the nature of the violation(s) of the code, including a reference to the provision(s) of the code which have been violated, all of which were observed or discovered either during an inspection or investigation by a representative of the state health officer.

* * *

Secretary—executive head and chief administrative officer of the department who has been appointed by the governor with the consent of the senate in accord with R.S. 40:253. This term shall also include any acting secretary of the department and the secretary/acting secretary's duly authorized representative(s).

* * *

State Sanitary Code—rules, regulations, and provisions promulgated by the state health officer which covers matters within his jurisdiction in accord with the authority granted under R.S. 36:258(B), R.S.40:4(A), and R.S. 40:5. Such rules, regulations, and provisions are housed in Title 51 of the Louisiana Administrative Code (LAC), i.e., LAC 51.

* * *

Violation—a transgression of a Section, Subsection, Paragraph, Subparagraph, Clause, Subclause, or any other divisions thereof of the code. Violations are classified into four classes corresponding to the severity of the violation:

* * *

Violator—primarily, any person who has been issued a Notice of Imposition of penalty for noncompliance with any provision of a compliance order. Generally, this term shall also include persons who have been issued a Notice of Violation wherein such person(s) is alleged to have violated one or more provisions of the state sanitary code.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4 and R.S. 40:5(3)(7)(17)(19)(20)(21).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 27:1693 (October 2001), repromulgated LR 28:1209 (June 2002), amended LR 28:2528 (December 2002), LR 34:

§105. Administrative Enforcement Procedures [formerly paragraph 1:007-1]

A. The proper documentation of violations is an essential part of the enforcement process. When violations of the code are found by either inspection, investigation, or by any other means, they shall be noted either on a notice of violation(s) form or letter. The sanitarian, engineer or other representative of the state health officer shall describe with particularity the nature of the violation(s), including a reference to the provision(s) of the code which have been violated. A specific date shall be set for correction and the violator shall be warned of the penalties that could ensue in the event of noncompliance.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4 and R.S. 40:5(3)(7)(17)(19)(20)(21).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 27:1693 (October 2001), amended LR 28:1210 (June 2002), LR 34:

§107. Delivery of the Notice of Violation [formerly paragraph 1:007-2]

A. In those cases in which the state health officer or his/her representative determines that a violation has occurred and a decision is made to issue a notice of violation, the notice of violation form or letter which list the violation(s) shall:

1. be left with the operator, owner, manager, lessee or their agent, or person in charge of the establishment, facility, or property at the time of such inspection or monitoring;

2. be hand-delivered or mailed to the person in charge of the establishment, facility, or property as soon as a determination is made that there is/are violation(s), or

3. be left with, hand-delivered, or mailed to any other person deemed to have violated the state sanitary code.

B. Any notice of violation which has been left with the operator, owner, manager, lessee or their agent, or person in charge of the establishment, facility, or property at the time of inspection or monitoring shall have the date that the notice of violation was left with such person recorded on the notice of violation form or letter.

C. Any notice of violation which is hand-delivered shall have the date of delivery recorded on the notice of violation form or letter or shall have the date of delivery of the notice of violation recorded on a service of process form.

D. Any notice of violation which is issued by mailing shall be sent by United States Postal Service, via certified mail-return receipt requested, registered mail-return receipt requested, or express mail-return receipt requested.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4 and R.S. 40:5(3)(7)(17)(19)(20)(21).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 27:1694 (October 2001), repromulgated LR 28:1210 (June 2002), amended LR 28:2529 (December 2002), LR 34:

§109. Violation Notice [formerly paragraph 1:007-4]

A. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 27:1694 (October 2001), repromulgated LR 28:1210 (June 2002), amended LR 28:2529 (December 2002), repealed LR 34:

§111. Reinspection and Compliance Order
[formerly paragraph 1:007-5]

A. If reinspection discloses that the violation(s) specified in the notice of violation has not been remedied, the state health officer or his/her representative may issue a compliance order requiring correction of the violation(s) after said compliance order is served, or take whatever action is authorized by law to remedy the violation(s). Compliance orders may be issued by the state health officer to any such persons as he deems necessary to aid in the enforcement of the provisions of the code, including orders modifying, suspending, rescinding or revoking permits, variances, or exemptions, and orders requiring persons to comply with a rule, regulation, schedule, or other requirement of the state health officer. An order may also require remedial actions to be taken to prevent harm to public safety, health, or welfare.

B. Compliance orders shall be served by United States Postal Service, via certified mail-return receipt requested, registered mail-return receipt requested, or express mail-return receipt requested, or hand-delivered. Any compliance order which is hand-delivered shall have the date of delivery recorded on the compliance order or shall have the date of delivery of the compliance order recorded on a service of process form.

C. Any compliance order issued under this Section shall:

1. be signed by the state health officer and the secretary and shall be effective upon issuance unless a later date is specified therein;

2. state with reasonable specificity the nature of the violation;

3. state a time limit for compliance;

4. state that in the event of non-compliance, a civil fine may be assessed and/or an existing license or permit issued by the department may be suspended or revoked;

5. state that the order shall become final and not subject to further review 20 days after the order has been served to the respondent, unless the respondent files a written request for an administrative hearing with the state health officer within that 20 day period; and

6. be subject to appeal procedures set forth by state law.

D. If timely received, the state health officer shall forward any request for an administrative hearing to the Division of Administrative Law (DAL). In accord with R.S. 49:991 et seq., hearings shall be held by an Administrative Law Judge (ALJ) employed by the DAL.

E. Upon finding that an emergency exists which requires that immediate action be taken, the state health officer shall issue such emergency compliance orders as are necessary, which shall be effective immediately upon issuance, and any request for hearing shall not suspend the implementation of the action ordered. In any case wherein the state health officer determines that an emergency compliance order is required to be issued, the prior issuance of a notice of violation shall not be necessary.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4 and R.S. 40:5(3)(7)(17)(19)(20)(21).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 27:1694 (October 2001), amended LR 28:1210 (June 2002), amended LR 28:2529 (December 2002), LR 34:

§119. Plans and Permits

A. ...

B. [formerly paragraph 1:009-2] In those instances in which such activities, for which submission of plans prior to initiation of the activity is required, are found to exist, and no such submittal of plans has been made, the state health officer shall, upon submittal of the required plans and determination of compliance of such activity with this code, offer no objection to the existence of such activity. This shall not be construed to limit in any way the state health officer's authority to suspend, rescind, revoke, or reissue such position of no objection, just as with any other approval or permit, as per §119.C of this Part. The burden of proof of compliance shall be on the applicant.

C. [formerly paragraph 1:010] The state health officer can suspend, rescind, revoke, and reissue permits or approvals, or issue new permits or approvals as provided in this code. The addresses to which requests shall be submitted are set forth in the appropriate Parts of this code.

1. [formerly 1:010-1] If any permit requiring a fee is paid for by a check that is returned for insufficient funds, closed account, stop payment, or for any other reason, the permit holder must reimburse the appropriate agency within 30 days of notification that their check has been returned. Failure to comply with this Paragraph shall be sufficient grounds for the suspension, rescission, or revocation of said permit.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4 and R.S. 40:5(3)(7)(17)(19)(20)(21).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 27:1695 (October 2001), amended LR 28:1211 (June 2002), LR 34:

§125. Alternate Administrative Enforcement Procedures

[formerly 1:007-24]

A. When the state health officer chooses to utilize the administrative order/civil penalty authority granted within R.S. 40:5.9 relative to violations applicable to public water systems, the regulations which implement the enforcement provisions of this law are embodied within Chapters 5 and 7 of Part XII of the code.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4, R.S. 40:5.9, and R.S. 40:5(3)(7)(17)(19)(20)(21).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 34:

DHH-OPH will conduct a public hearing at 10 a.m. on Wednesday, February 27, 2008, in Room 671/673 of the Bienville Building, 628 North Fourth Street, Baton Rouge, LA. Persons attending the hearing may have their parking ticket validated when one parks in the seven-story Galvez Parking Garage which is located between North Sixth and North Fifth/North and Main Sts. (catercorner and across the street from the Bienville Building). All interested persons are invited to attend and present data, views, comments, or arguments, orally or in writing.

In addition, all interested persons are invited to submit written comments on the proposed Rule. Such comments must be received no later than Friday, February 29, 2008 at COB, 4:30 p.m., and should be addressed to Mr. Glenn T. Cambre, Director, Center for Environmental Health Services, Office of Public Health, CEHS Mail Bin #1, P.O.

Box 4489, Baton Rouge, LA 70821-4489, or faxed to (225) 342-7303. If comments are to be shipped or hand-delivered, please deliver to the Bienville Building, 628 North Fourth Street, Room 124, Baton Rouge, LA 70802.

Roxane A. Townsend, M.D.
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: General Provisions**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

This rule proposes to amend Part I (General Provisions) of Title 51 (Public Health-Sanitary Code) relative to broadening the authority of the state health officer to apply administrative enforcement procedures against persons other than the operator, owner, manager, lessee (or their agent), or person in charge of an establishment, facility, or property. The proposed rule provides that other persons besides the owner, manager, operator, lessee (or their agent) of an establishment, facility, or property may be held accountable for violating the provisions of the State Sanitary Code and authorizes the state health officer to take appropriate enforcement action(s) against such persons.

The only cost anticipated for this rule change is the cost to publish the notice of intent and the final rule in the *Louisiana Register*, which is estimated to be \$382. This cost is routinely covered in the agency's budget.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

This rule change may result in additional state revenue collections based on civil fines that could be imposed on persons in violation of the State Sanitary Code; however, the amount of revenue cannot be determined.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This rule will require individuals such as engineers, architects, sewerage system installers and other persons who are non-owners that are expected to comply with the State Sanitary Code to also be liable for code violations. The cost to these individuals will depend on the type of violation and the length of time it takes the individual to comply.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

No effect is anticipated on competition and employment.

Sharon Howard
Assistant Secretary
0801#063

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Health and Hospitals
Office of the Secretary**

Statewide Human Services Framework
(LAC 48:I.Chapter 26)

The Department of Health and Hospitals, Office of the Secretary proposes to adopt LAC 48:I.Chapter 26 as authorized by R.S. 28:382.2. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

R.S. 28:382.2, which was enacted by Act 90 of the 2005 Regular Session of the Louisiana Legislature and amended by Acts 350, 449 and 631 of the 2006 Regular Session of the Louisiana Legislature, authorized the Department of Health and Hospitals to develop a statewide human services framework to assure the provision of the delivery of addictive disorders, developmental disabilities, and mental health services and supports funded by appropriation from the state and to assure that services provided under the jurisdiction of local governing entities; the Office for Addictive Disorders; the Office for Citizens with Developmental Disabilities; and the Office of Mental Health are monitored, coordinated, planned and budgeted. These provisions do not replace or override any requirements of the State of Louisiana Medicaid State Plan or any rules or guidelines issued pursuant to the Medicaid program in Louisiana or supersede or negate other applicable state and federal mandates and statutory requirements related to the execution of programs, services, and administrative functions in the delivery of community-based addictive disorders, developmental disabilities, and mental health services and supports.

In compliance with the directives of Act 90 of the 2005 Regular Session of the Louisiana Legislature, as amended by Acts 350, 449 and 631 of the 2006 Regular Session of the Louisiana Legislature, the Department of Health and Hospitals, Office of the Secretary proposes to adopt provisions governing the development of a statewide human services framework to assure the provision of the delivery of addictive disorders, developmental disabilities, and mental health services and supports funded by appropriations from the state.

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have a positive impact on family functioning, stability, and autonomy as described in R.S. 49:972 by helping individuals, and where appropriate their families, to maximize their potential through the community-based integration of addictive disorders, developmental disabilities, and mental health services and supports focused on quality of life which respects the individual's choice in access and delivery of services.

Title 48

PUBLIC HEALTH—GENERAL

Part I. General Provisions

Subpart 1. General

**Chapter 26. Statewide Human Services Framework
§2601. Human Services Interagency Council**

A. In accordance with R.S. 28:382.2, the statewide human services framework shall be developed through a planning process that is coordinated by the Human Services Interagency Council (HSIC), which is chaired by the Secretary of the Department of Health and Hospitals (DHH) or his or her designee.

1. Membership of the HISC shall include:

a. the assistant secretaries of the DHH program offices of Addictive Disorders (OAD), Developmental Disabilities (OCDD), Mental Health (OMH), and Public Health (OPH); and

b. the executive directors of the local governing entities (LGEs).

2. The HSIC shall establish a consumer advisory group to provide advice and input to the council in the development and implementation of the statewide human services framework.

3. The HISC will serve as the main oversight and coordinating body in the overall development of the Statewide Human Services Framework components.

4. The HISC shall create a Statewide Human Services Accountability and Implementation Plan that sets forth the criteria, process, timelines, and guidelines for planning, monitoring, providing accountability, and provision of technical support by the DHH in the exclusive delivery of addictive disorders, developmental disabilities, and mental health services and supports funded by appropriations from the state.

a. This plan will be reviewed annually by the HSIC, and revisions will be made as determined by the council.

B. In accordance with Subsection C of R.S. 28:382.2, the secretary may reorganize DHH agencies and offices, exclusive of Jefferson Parish Human Services Authority, Capital Area Human Services District, Florida Parishes Human Services Authority, Metropolitan Human Services District, Northeast Delta Human Services Authority, South Central Louisiana Human Services Authority, and other human services districts and authorities, to support the transition of state roles and functions from direct service delivery to policy setting, monitoring, and provision of technical support of direct service delivery systems.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:382.2.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, LR 34:

§2603. Vision and Mission of the Statewide Human Services System

A. Vision of the Statewide Human Services System. The statewide human services system will assure individuals and their families' timely access to a high quality, community-based system of supports and services that is person- and family-centered and improves their quality of life.

B. Mission of the Statewide Human Services System. The mission of the statewide human services system is to provide individuals and their families a person-centered, community-based integrated system of services and supports focused on quality of life for people with addictive disorders, developmental disabilities and mental illness in a manner that respects an individual's choice in access and delivery of services. It is further the obligation of state and local governing entity (LGE) within its available resources to provide addictive disorders, developmental disabilities, and mental health services and supports through a delivery system designed to meet the needs of individuals in the least restrictive, most therapeutically appropriate setting available and to maximize their quality of life.

NOTE: To achieve the Vision and Mission of the Statewide Human Services System, the DHH and the LGEs will accept the roles and responsibilities outlined by the HSIC in §2605 and §2607.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:382.2.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, LR 34:

§2605. Roles and Responsibilities of the Department of Health and Hospitals

A. Assurance of Statewide System. The secretary of the Department of Health and Hospitals shall be responsible for policy setting, development, and implementation of a statewide system to assure the provision of the delivery of addictive disorders, developmental disabilities, and mental health services and supports funded by appropriations from the state.

B. Policy Direction. The Department of Health and Hospitals will be ultimately responsible for statewide policy and programmatic direction for addictive disorders, developmental disabilities, and mental health. In order to assure policy direction is consistent with local initiatives, the department will seek input from the LGE representatives in revising or developing these policies.

C. Identification of Outcomes. The department through its program offices will be responsible for identifying specific measurable outcomes that assure consistency in statewide policy and program initiatives. Outcomes will be focused on specific attainment of objectives rather than processes and will be developed or approved prior to implementation through the Human Services Interagency Committee process.

D. Oversight/Monitoring of Outcomes. The department will specify operational, measurable definitions and data collection requirements for outcomes to be achieved and regular reporting requirements for those outcomes.

1. The process will be part of the annual Memorandum of Understanding development and will incorporate mutually agreeable terms that include:

- a. timelines for evaluation of outcomes;
- b. routine verbal and written feedback; and
- c. methods to address unmet expectations.

2. The process and indicators will be reviewed and approved by the HSIC.

E. Technical Assistance/Training. The department shall offer training and technical assistance for meeting specific policy objectives.

1. The training and assistance shall be based on best and promising practices and evidence-based practices that are nationally recognized and will be directly correlated to the outcomes that are measured.

2. The scheduling of training and technical assistance shall be in consultation with LGEs to reduce scheduling conflicts and to assure availability of staff. It shall also assure that interdepartmental events are compatible with proposed training times and dates.

3. The department shall provide technical assistance to the LGEs in obtaining necessary federal funds to meet statewide outcomes. This will include development and participation in federal grants as well as assistance with routine federal funding.

F. Assistance with Budget Process. The department shall provide necessary communication and assistance to allow for LGE participation in the entire budget cycle.

1. Assistance will include budget development, budget appeals, and budget revisions.

2. Through the HSIC, there will be routine communication for known budget processes as well as inclusion in processes when the budget must be revised or reduced. Discussions will include issues or proposals specifically related to changes in LGE programs or financing prior to final decision-making with the LGE Executive Director.

G. Legislative Representation. The department shall include LGE issues presented through the HSIC when responding to legislative requests as well as in legislative presentations, inclusive of budgetary presentations.

H. Funding. The department will work with the LGEs to develop a comprehensive financial strategy which includes resource allocation formulas that provide equitable funding to the LGEs.

1. The department will include the appropriate proportionate amount of funding for the LGE in any statewide requests by program offices for new and expanded regional funds.

2. Benchmarks for Title 19 funds (Social Security Act) will be established for new LGEs and with existing regions to provide incentives for regions and LGEs to collect all additional non-appropriated funds available to them. Benchmarks will not be used to jeopardize the ability of new LGEs to meet their budgets as appropriated by the legislature.

I. Communications. The department will recognize the executive director as the appointing authority within the LGE, and as such, DHH officials will inform the LGE Executive Director of all relevant matters that concern services or the delivery of services provided by the LGE.

1. The LGE Executive Director shall serve as the conduit through which DHH shall coordinate efforts within the LGE.

2. The LGE Executive Director will be copied on all communications with the LGE staff.

3. The department will notify the executive director of any concerns or complaints concerning the LGE following HIPAA rules and will notify the executive director of funding requests by community groups residing within the LGE and of requests for letters of support for grant funding of programs to be delivered within the LGE.

4. The department will communicate to the LGE Executive Director any planned amendments to current law establishing the LGE or new legislation that is primarily directed to impact LGE funding, administration, or programs prior to submission to the Governor's Office or to a legislative author.

5. The department will invite the LGE to OAD, OCDD, and OMH meetings that include the regional administrators of the other regions under the administration of the three program offices, when discussions or presentations, including legislative presentations by the department, impact citizens and/or the administration of duties within the LGE.

6. The department will include contact information for the LGE on all print and electronic communications that list services or contacts across the state for OMH, OCDD and OAD.

7. The department will provide an updated list of all contracts executed for community-based services in the LGE service area that are not required to be executed by the LGE.

J. Inpatient Facilities. The department will operate, manage and fund any inpatient facility, developmental center, and community-based residential treatment facilities under the jurisdiction of DHH.

1. It will be the responsibility of DHH/the program offices to assure that services which continue to be operated by the state (state operated hospitals and developmental centers) are well coordinated with LGEs and that fair and equal access to all DHH facilities and other statewide services is provided to all appropriately referred individuals residing in the parishes served by the LGE.

2. The capacity and locations of these units will be reviewed for effectiveness through the HSIC members as feasible.

K. Quality Management and Monitoring. The DHH will complete the following quality management and monitoring activities:

1. Monitor this framework agreement and conduct compliance monitoring consistent with the provisions of the statewide Human Services Accountability and Implementation Plan and all applicable statutes, rules and regulations, assuring corrective action through coordination with the LGE.

2. Provide technical assistance based on best and promising practices and the provision of services consistent with statewide strategies and evidenced-based principles.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:382.2.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, LR 34:

§2607. Roles and Responsibilities of the Local Governing Entities (LGEs)

A. Implementation of Policy Direction. The LGEs will be responsible for implementing the policy and programmatic direction of each program office. The implementation shall be measured through outcomes, and not processes, as agreed upon by the HSIC.

B. Participation in Policy Development. The LGEs will participate in establishing statewide policies, program direction and accountability to ensure service needs are achieved. The LGEs shall participate in policy and program development and revision as requested by the department through its program offices. This shall include providing feedback through the HSIC throughout the process from initiation to implementation of new or revised policy.

C. Outcome Attainment. The LGEs will be responsible for meeting the outcomes as stated in the Memorandum of Understandings. Outcomes will be focused on policy objectives and shall be specific and measurable as agreed upon by the HSIC.

D. Participation in Training Initiatives. The LGEs' staff shall participate in departmental training and technical assistance developed for meeting programmatic objectives.

E. Funding. The LGE will work with DHH through the HSIC to develop a comprehensive financial strategy which includes resource allocation formulas that provide equitable funding to the LGEs.

1. LGEs have the authority, based on their enabling legislation, to receive funds and retain them beyond a single fiscal year. Based on opinions from the Louisiana Department of Justice, these funds shall reside with the LGE and are not to be used to offset future appropriations.

2. Establishing benchmarks for each LGE will be fair and will not be used to eliminate these important funds along with their flexibility to serve specific citizen needs as identified by the LGE and its board of directors.

3. Funds will be maintained within the State Treasury and are a result of either over-collecting Title 19 (Social Security Act) funds beyond the state-appropriated funds identified in a single fiscal year or the LGE receiving grant funds directly for specific programs and projects, donations, mileages, etc.

4. Funds will be auditable along with all other funds appropriated to the LGE, although they are maintained separately. Use and accounting of these funds will be regulated by internal policies governed by the LGEs' Board of Directors.

5. Within the DHH budget cycle, each LGE will be required to provide a maximum projection of the total Title 19 (Social Security Act) funds to be collected in the coming fiscal year. This projection will be based on prior year collection, as well as any impact that is predictable, such as changes in rates, available staff to provide such services, and other factors that may impact the LGE's ability to meet, or cause them to exceed, the prior year's collection. This projection is required by Medicaid to ensure the availability of the state match.

F. Communication. The LGE shall respond to requests and other requirements from the department/program offices within reasonably established timeframes. Upon receipt of a complaint from the department, the LGE Executive Director or designee will inform the DHH official(s) of the resolution of the complaint or concern.

G. Legal. The LGE shall have the right at all times to hire its own legal representative in all legal matters including appeals and hearings related to the LGE. It is agreed that DHH shall not be authorized to act on behalf of the LGE in any matter without the express consent of the LGE executive director.

H. Administrative. The LGE will abide by all applicable statutory and administrative requirements.

I. Provision of Statewide Community-Based Human Services. The LGE will provide an integrated system of community-based services and supports based on established standards of care and best practices for the delivery of addictive disorders, developmental disabilities, and mental health services and supports and will maintain services in community-based programs at least at the same level as the state maintains in similar programs.

1. The LGE will provide a list of all social and professional services available to children and adults through contractual agreement with local providers. The list shall be known as the Freedom of Choice List and shall include but will not be limited to: the names of providers/organizations/companies, the cost of services, and a brief description of the support and/or services the provider/organization/company offers.

2. The LGE will provide fair and equal access to 24-hour addictive disorders residential treatment facilities under the control of the LGE to all appropriately referred individuals residing in Louisiana within available resources.

3. The LGE will provide for the delivery of services to persons discharged from state facilities who will reside in

the LGE service area through collaborative discharge planning.

4. The LGE will abide by all requirements and principles of state and federal statutes and promulgated rules and regulations relative to addictive disorders, developmental disabilities, and mental health programs, services, and supports provided by the LGE.

J. Services for People with Addictive Disorders. The LGE will provide services related to the care, diagnosis, training, treatment, education of, and primary prevention of addiction using admission criteria and treatment consistent with OAD state-operated programs.

1. The LGE will have provisions in place to handle emergency admissions for treatment.

2. The LGE will work with OAD to assure that all requirements and set asides of the Substance Abuse Block Grant and other funding provided to the LGE for special populations are adhered to in the delivery of services and to ensure the fair and equitable distribution of resources within applicable federal and state appropriations, grants, and required allocation formulas.

3. OAD and the LGE will work together to assure the fair and equal accessibility to facilities including inpatient, residential, medical and social detox, and gambling residential in a reciprocal manner and within available resources.

K. Services for People with Developmental Disabilities. The LGE will be responsible for community-based developmental disabilities services, supports, and functions relating to the care, diagnosis, eligibility determination, training, treatment, and support coordination for persons with developmental disabilities, and to follow policies governing admissions to developmental centers.

1. The LGE will establish a system of entry for developmental disabilities services and supports within the LGE in a manner consistent with the Determination Process for System Entry for Developmental Disabilities Services as defined by promulgated Rule.

2. The LGE will provide person-centered supports, services, and planning to individuals and their families; will assist in the planning of personal outcomes values, goals, and objectives; and will evaluate the services provided to individuals and their families.

3. The LGE will be responsible for the delivery and supervision of supports and services to people transitioning from ICFs/DD (Intermediate Care Facilities for Persons with Developmental Disabilities) to community living within the LGE.

L. Services for People with Mental Illness. The LGE will perform the functions which provide community-based services and continuity of care for the diagnosis, prevention, detection, treatment, rehabilitation and follow-up care of mental and emotional illness.

1. The LGE will maintain and support Single Point of Entry (SPOE) state standards for mental health services and accept placements from outside of the LGE in a fair and reciprocal manner within available resources.

2. The LGE will use a system of care principles and practices when serving children and youth.

3. The LGE will use recovery principles and practices when serving adults with mental illness.

4. The LGE will work with OMH to assure that all requirements and set asides of the Mental Health Block Grant and other funding provided to the LGE for special populations are adhered to in the delivery of services.

M. Judicial Commitment or Court Involvement in Placement in DHH Programs(s)

1. The LGE shall immediately notify the DHH Bureau of Legal Services and the appropriate DHH program office(s) after notification of a potential judicial commitment or court involvement that could result in placement in a DHH program(s).

2. The LGE shall provide program staff to assist DHH program office(s) in all judicial commitments and court events involving placement in a DHH program(s) and will adhere to DHH program office protocols relevant to the placement of a person by a court into DHH custody.

N. Information Management and Data Collection and Reporting. The LGE will provide required systems management, services data, and reports in a format, content, and frequency as determined by the HSIC.

1. Specific content of required information sets and any necessary changes to the content of required information sets will be recommended by the HSIC and issued by program office directives. The format for reporting this information shall comply with mutually agreed upon data transmission requirements and procedures as recommended by the HSIC.

2. Changes in software or hardware that the LGE is mandated to adopt to be in compliance with data collection or reporting shall be reviewed and approved by the HSIC. The council will assess the availability of funding of both the DHH and LGE to implement such changes in software or hardware prior to the issuance of recommendations for adoption.

O. Quality Management and Monitoring. The LGE will complete the following quality management and monitoring activities:

1. Ensure that the delivery of supports and services is consistent with best and promising practices and evidence-based principles.

2. Monitor the quality of community-based human services and supports provided by the LGE to persons with addictive disorders, developmental disabilities, and mental illness.

a. Monitoring shall include quality indicators consistent with the required data set of person-focused and system outcomes measurement required for reliable outcome measurement.

b. Statewide monitoring of human services provided by the LGE will be in accordance with the provisions of the statewide plan, as approved by the HSIC.

3. Make reports to DHH's Bureau of Protective Services (BPS) of all applicable cases of alleged abuse, neglect, exploitation, or extortion of individuals in need of protection in accordance with BPS policy and statutes.

4. Permit the DHH and its program offices to conduct monitoring activities of all mental health, developmental disabilities, and addictive disorders supports, and services provided by the LGE to assure compliance with federal and state statutes and regulations and funding requirements (e.g., Mental Health and Substance Abuse Block Grant

requirements) and to make available human resource staffing data for on-site review.

a. All monitoring of community-based services provided by the LGE will be in compliance with the standard provisions of the human services monitoring and quality assurance plans to be developed and implemented by the HSIC.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:382.2.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, LR 34:

§2609. Definition of Eligible and Priority Populations

A. Eligibility. The DHH, LGEs, and regional offices will provide Addictive Disorder (AD), Developmental Disabilities (DD), and Mental Health (MH) supports and services for individuals residing in Louisiana.

1. Eligibility for services will be determined through a uniform screening and assessment process.

2. Services for eligible and priority populations will take into consideration resource availability, as well as state and local needs and priorities.

3. DHH in collaboration and coordination with the LGEs and DHH regions will identify the process for defining eligible and priority populations in the statewide Human Services Accountability and Implementation Plan. The population criteria and any subsequent modifications to the criteria will be documented in the annual plan update. LGEs and regional offices may expand the eligibility criteria, as resources permit, to meet defined local needs and priorities.

B. Priority Populations for System Development. DHH will annually identify state policy priorities that are intended to meet the needs of unserved and underserved population groups and to move the systems of supports and services in desired directions.

1. Priority populations shall be identified through the annual statewide Human Services Accountability and Implementation Plan updates, annual federal block grant planning processes, and annual regional/LGE planning processes based on regional/LGE performance report cards and regional/LGE profiles. Designation of a priority population means that the service needs of these groups will be embraced as system-wide priorities.

2. The LGEs or regions may add additional populations to be targeted based on local planning needs and as local resources permit.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:382.2.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, LR 34:

§2611. Definition of Core and Targeted Services

A. Core and Targeted Services. The LGEs and regional offices shall implement core and targeted services, which represent the minimum required sets of services that will be made available statewide.

1. The statewide Human Services Accountability and Implementation Plan shall identify the process for developing the lists of core and targeted services, as well as service definitions.

2. The services and definitions shall be reviewed annually as part of the statewide Human Services Accountability and Implementation Plan, Center for Mental Health Services (CMHS) block grant, and Substance Abuse

Prevention and Treatment (SAPT) block grant planning processes, including a comparable planning process conducted in conjunction with the annual budget process by OCDD.

3. The annual budget submissions of OAD, OCDD and OMH, including the budget submissions of the LGEs, shall specify how resources will be spent to provide core and targeted services.

B. Best Practice Services. OAD, OCDD, and OMH in coordination and collaboration with the LGEs and regional offices shall also plan and develop best practice services to the extent resources allow in order to develop a comprehensive statewide system of community-based services for persons with addictive disorders, developmental disabilities, and mental illness in Louisiana.

1. Evidenced-based and promising practices in services shall be developed for inclusion in the statewide Human Services Accountability and Implementation Plans.

2. The list of services and supports will be reviewed annually.

C. Definition of Core and Targeted Services

1. Core Services. Core services are those minimum and essential services that are available to all eligible populations in all urban and rural areas.

a. The LGEs and regional offices, within available resources, are responsible for the delivery of core services.

b. The availability of core services is a priority of the HSIC system, and access to core services will be monitored through systematic analysis of performance indicator data.

2. Targeted Services. Targeted services are mandated specialized services available to priority populations on a local, regional, or statewide basis.

a. Targeted services will be provided to individuals with the most severe disabilities.

b. Targeted services may be provided in and by the regional offices/LGEs or accessed by the regional offices/LGEs through MOU/contract with a DHH program office or other state agency, another regional office/LGE, or other provider.

c. Targeted services should be available statewide, but funding limitations may prevent all in need from receiving targeted services.

d. Regions and LGEs shall maintain data regarding the numbers of individuals for whom services are not available and numbers and types of services and supports that such individuals require.

D. Core Services. The following core community human services must be made available in all regional offices and LGEs.

1. Screening Services. Screening represents the first stage in determining whether an individual's needs may be appropriately addressed by the AD, DD or MH systems.

a. Each LGE/regional office shall collect uniform data elements to facilitate timely triage to the program most suited to conduct a full assessment.

b. Screening will be conducted with individuals who are not currently being served by the system to determine the nature of an individual's needs for services and supports.

c. The screening process may include federally mandated means testing screening. Sufficient financial and

clinical information shall be gathered to determine next steps.

d. The screening process shall be structured as a brief interview to determine whether or not the individual should be referred for further services.

2. Assessment Services. The assessment is a follow-up step to screening. The assessment is an evaluative tool used to determine the extent of the individual's needs through a systematic appraisal of any combination of mental, psychological, physical, behavioral, functional, social, economic, and cognitive capabilities.

a. The purposes of the assessment are diagnosis, determination of the person's level of need, eligibility to be included in the priority population, and determination of the urgency and intensity of need.

b. The goal is to have statewide uniform assessment protocols within each of the program areas.

c. Where possible, common data elements will be included across program areas.

d. Common standards for access will be developed. Uniformity in the assessment process will ensure that consumers can enter through multiple access points and receive the same level of access, based on uniform standards.

3. Referrals. Individuals will be provided with information about available qualified service providers, additional resources, and services available through other state agencies, faith-based organizations, and non-profit organizations. The LGEs and regional offices shall work within their local communities to build community capacity through the establishment of community-based provider networks for services and supports.

4. Support Coordination. Each eligible individual shall receive service coordination which includes, but is not necessarily limited to, assistance with:

a. planning and coordinating specialized and generic services and supports; and

b. monitoring the provision of such services and supports.

5. Community-Based Crisis Response. Individuals in need of urgent and emergent care related to addictive disorders, developmental disabilities or mental illness will have access to a coordinated community-based crisis response system that has the capacity to respond on a 24-hour basis.

a. The community-based crisis response system may include, but is not limited to, on-call, 24-hour hotline, warm line, crisis counseling, behavioral management and intervention, mobile crisis team, crisis stabilization in an alternative setting, etc. Services listed may not be available in every LGE or region.

b. The LGEs/regions will need to determine their system of crisis response.

c. DHH will approve the adequacy of the coordinated statewide crisis response system in each region and LGE based on standards developed and incorporated into the statewide Human Services Accountability and Implementation Plan.

6. Community Partnership and Collaboration. The LGEs/regions will collaborate and build community capacity through the development of partnerships and collaborative agreements with other non-profit organizations, faith-based

organizations, social service organizations, and individual practitioners to promote planning and development of AD, DD, and MH services. The LGE/region will determine how this function will be carried out in the community.

7. Prevention Services. Prevention services shall be evidence-based or include best practices such as informational services, guidance, and instructional services to help individuals, various community groups, and the community at large to make informed decisions regarding their health. The LGE/region will develop a strategy for the provision of prevention services.

E. Targeted Services. DHH will develop a process to identify an approved set of targeted services consistent with state and federal law and regulations for individuals served by the regions and the LGEs for each program area.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:382.2.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, LR 34:

§2613. Standards for Intake and Access to Institutional and Community Service

A. System Entry. The LGEs will ensure that a system of entry (screening, assessment, and referral) exists to assure ease of access to Addictive Disorders (AD), Developmental Disabilities (DD), and Mental Health (MH) services provided through the regional offices and LGEs that is responsive to the needs of individuals in a timely manner.

1. Standardized procedures for screening and assessment and admission or referral to community and/or facility-based services for AD, DD, and MH services will be included in the statewide Human Services Accountability and Implementation Plan.

B. Required Elements of the Standardized Screening, Assessment and Eligibility Processes. The HSIC will develop standard data elements across program areas for screening, assessment, and admissions that will be included in the statewide Human Services Accountability and Implementation Plan.

1. The council will insure that all screening, assessment and admission procedures are field-tested prior to full-scale implementation.

2. These procedures will contain any necessary special provisions to cover core and targeted services for children, adults and elders delivered in the community and those delivered by facilities.

3. At a minimum, the standardized screening and assessment procedures will address each of the following elements.

a. Locations—Identification of all locations at which screening and individual assessments will be conducted.

b. Credentials of Screeners and Assessors—Specification of minimum requirements for individuals conducting screenings and individual assessments. Minimum requirements will specify both professional training and experience.

c. Ongoing Training of Screening and Assessment Staff—Identification of training protocols for screening and assessment personnel as well as provisions for periodic booster training to assure the consistency of procedures across LGEs and regions.

d. Screening and Assessment Protocols—Development of screening and assessment protocols which are consistent with the requirements of a unified individual record. The plan for screening and assessment will include recommendations for which data elements in the screening and assessment protocols should be standardized across all program areas and which should be standard only within program areas.

i. The screening protocol will contain, at a minimum, the following elements:

(a). standard reporting of individual demographics;

(b). standard reporting of information on individuals' needs and service history to make a determination about the appropriateness of referral within the system of care; and

(c). standard reporting of the outcome of the screening process.

ii. The assessment protocol will contain sufficient information to make determinations about individuals' clinical and, where applicable, financial eligibility for services. The assessment protocol will contain, at a minimum, the following elements:

(a). standard reporting of individual demographics;

(b). standard review of clinical and functional history;

(c). standard data elements for clinical assessment (including an assessment of risk) (when applicable) that have established reliability and validity;

(d). standard data elements for functional assessment (when applicable) that have established reliability and validity;

(e). standard data elements for assessment of psychosocial supports (when applicable) that have established reliability and validity;

(f). standardized financial assessment (when applicable); and

(g). standardized eligibility determination that operationalizes program area eligibility criteria for services.

d. Process for Assigning Priority for Services—Inclusion of guidelines for determining priority for services in those cases where there is insufficient capacity to meet demand for specific service types.

e. Cultural Competency of the Screening/Assessment and Eligibility Process—Specification of how these processes will meet the needs of racial and cultural minorities, consistent with nationally identified best practices.

f. Appeal Procedures—Appeals shall be granted in accordance with R.S. 28:382.2.

g. Data Processing Standards—Specification of minimum standards for reporting uniform data elements, timeliness of reporting and data accuracy.

h. Screening and Assessment Standards—Inclusion of performance standards for the screening and assessment process that allow both the state and the regions/LGEs to monitor access to services for individuals in urgent, emergent, and non-emergent situations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:382.2.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, LR 34:

§2615. Formal Agreements between the Department and LGEs in Regard to Appropriations

A. The annual Memorandum of Understanding (MOU) negotiated between the DHH and the LGEs shall serve as the formal agreement in regard to appropriations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:382.2.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, LR 34:

§2617. Statewide Strategies for the Provision of Technical Assistance

A. The HSIC shall recommend statewide strategies for the provision of technical assistance in the statewide Human Services Accountability and Implementation Plan. At a minimum, statewide strategies shall address the following:

1. statewide and local technical assistance strategies designed to foster implementation of evidenced based and best practice service models;

2. statewide and local technical assistance strategies targeted to service gaps, priorities and quality improvement needs identified through the regional/LGE Performance Indicator Report Cards and regional/LGE profiles; and

3. statewide and local technical assistance strategies associated with efforts to improve performance related to any potential performance payment system.

B. The HSIC shall annually develop statewide and local technical assistance strategies for inclusion in the annual statewide Human Services Accountability and Implementation Plan update. The HSIC shall specify detailed strategies, means of financing, and timelines for technical assistance and shall identify the sources of technical assistance to be provided under the plan.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:382.2.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, LR 34:

§2619. Development and Implementation of a Plan for Statewide Monitoring

A. Addictive Disorders (AD), Developmental Disabilities (DD), and Mental Health (MH) Quality Management and Improvement Strategic Planning Process. The HSIC shall develop an integrated phased strategic planning process that shall cross populations and shall adhere to the following requirements.

1. The strategic plan shall be developed by the HSIC and incorporated in the statewide Human Services Accountability and Implementation Plan.

2. The quality management and improvement strategic plan shall include, but not be limited to, the following components:

a. a mission and vision of the department;

b. a statement of goals that reflect the benefits the department expects to achieve on behalf of the individuals provided AD, DD, and MH services;

c. a statement of objectives which the department expects to achieve in attaining its goal; and

d. a minimum required data set of person-focused and systems outcome measurements required for reliable outcome measurements that use consistent definitions statewide.

3. Data shall be collected and submitted on all priority performance and systems indicators.

4. The department shall publish an annual report documenting its progress in meeting its goals and objectives.

5. The HSIC shall review the department's progress in meeting its goals and objectives.

6. Recommendations of the HSIC shall be reviewed by the secretary, or his or her designee.

7. Each region/LGE and facility shall develop an integrated quality management and improvement strategic planning process for the specific populations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:382.2.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, LR 34:

§2621. Development and Implementation of a Plan for Statewide Monitoring to Assure Quality Care and Protection of Consumer Rights and Reliable Outcome Measurement

A. The statewide Human Services Accountability and Implementation Plan will include provisions for the development and implementation of monitoring to assure the quality of care and services, protection of individuals' rights, and reliable outcome measurements.

1. The areas of measurement will focus on the performance of the system with respect to the protection of individual rights, well-being and freedom of choice.

2. The program offices and LGEs will develop common outcomes, indicators, and definitions which will be monitored on a statewide basis.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:382.2.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, LR 34:

§2623. Development and Implementation of a Plan for Submission of Annual Budgets Consistent with Chapter I and Accounting Requirements for Funds Appropriated by the State

A. The statewide Human Services Accountability and Implementation Plan will include the following elements related to the budget cycle:

1. state fiscal year begins;

2. federal fiscal year begins;

3. current year budget spread into ISIS;

4. MOU signed, BA7 processed for MOU budget changes/spread into ISIS;

5. monthly expenditure and revenue projections;

6. preparation of next fiscal year budget request;

7. DOA/legislative fiscal budget review;

8. appeals of recommended budget;

9. legislative process;

10. formulation of next fiscal year operations based on recommended budget;

11. fiscal year close-out; and

12. mid-year budget cut

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:382.2.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, LR 34:

§2625. Development and Implementation of Standards for Provider Agreements or Contracted Services

A. Standards for provider agreements or contracted services funded by appropriations from the state will be developed and implemented to assure compliance with the statewide Human Services Accountability and Implementation Plan and applicable state and federal laws, rules, regulations, and court orders and to provide remedies for correction of noncompliance and sanctions for failure to comply.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:382.2.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, LR 34:

Family Impact Statement

1. The Effect on the Stability of the Family. This Rule will not impact families directly. It sets forth a framework for the Department of Health and Hospitals and the local governance entities in the planning, monitoring and provision of addictive disorder, mental health and developmental disability services. Families will benefit from the planning and provision of the services that this framework guides.

2. The Effect on the Authority and Rights of Parents Regarding the Education and Supervision of their Children. There is no effect on the authority and rights of parents regarding the education and supervision of their children.

3. The Effect on the Functioning of the Family. The "Framework" Rule will have no direct effect on family functioning. However, the collaboration between the DHH and LGE based on the framework may positively affect the functioning of the family because of improvement in the physical, mental, and emotional well-being of family members from the delivery of services.

4. The Effect on Family Earnings and Family Budget. Does not directly affect the family budget or earnings.

5. The Effect on the Behavior and Personal Responsibility of Children. There is no effect on the behavior and personal responsibility of children.

6. The Ability of the Family or a Local Government to Perform the Function as Contained in the Proposed Rule. The proposed Rule establishes roles and responsibilities for both the DHH and the local governance entity to facilitate discussion, training, monitoring, etc., and will not require additional staff for the LGE.

Interested persons may submit written comments to Frank J. Wesley, Department of Health and Hospitals, Office of the Secretary, P.O. Box 629, Baton Rouge, LA 70821-0629. He is responsible for responding to inquiries regarding this proposed Rule. All interested persons will be afforded an opportunity to submit data, views, or arguments either orally or in writing. The deadline for the receipt of all written comments is 4:30 p.m. on the next day following the public hearing.

Roxane A. Townsend, M.D.
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Statewide Human Services Framework

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that the implementation of this proposed rule will have no programmatic fiscal impact to the state other than cost of promulgation for FY 07-08. In FY 07-08, \$150 is included for the state's administrative expense for promulgation of this proposed rule and the final rule. No fiscal impact is anticipated for local governmental units in FY 07-08.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that the implementation of this proposed rule will have no revenue impact on either the state or local governmental units for FY 07-08.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Pursuant to Act 90, this rule establishes the working relationship between the Department of Health and Hospitals and the Local Governing Entities in planning, monitoring and delivering services and will not have costs or provide direct economic benefits to either party.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

No adverse effects are expected on competition or employment.

Roxane A. Townsend, M.D.
Secretary
0801#084

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Health and Hospitals
Office of the Secretary
Bureau of Health Services Financing**

Home Health Services—Extended Nursing Services
Reimbursement Rate Increase (LAC 50:XIII.701)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing proposes to adopt LAC 50:XIII.701 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This proposed Rule is promulgated in accordance with the Administrative Procedure Act, R.S. 49:950, et seq.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopted revised provisions governing extended and multiple daily nursing visits for recipients up to age 21 under the Home Health Program in LAC 50:XIII.305 (*Louisiana Register*, Volume 32, Number 3). The bureau adopted an Emergency Rule to increase the rates paid for extended nursing services under the Home Health Program (*Louisiana Register*, Volume 33, Number 7). This proposed Rule is being promulgated to continue the provisions of the July 20, 2007 Emergency Rule.

Title 50
PUBLIC HEALTH—MEDICAL ASSISTANCE

Part XIII. Home Health

Subpart 1. Home Health Services

Chapter 7. Reimbursement Methodology

§701. Nursing and Home Health Aide Services

A. Effective for dates of service on or after July, 20, 2007, the reimbursement rates for extended nursing services are increased as follows:

1. nurse care in home performed by a registered nurse (RN) is increased to \$34 per hour;

2. nurse care in home performed by a licensed practical nurse (LPN) is increased to \$32 per hour;

3. multiple visits—nurse care in home performed by an RN is increased to \$17 per hour; and

4. multiple visits—nurse care in home performed by an LPN is increased to \$16 per hour.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:

Family Impact Statement

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule will have a positive effect on family functioning, stability, or autonomy as described in R.S. 49:972 by ensuring access to medically necessary services for Chisholm Class members and Early and Periodic Screening, Diagnosis and Treatment Program eligibles.

Interested persons may submit written comments to Jerry Phillips, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to inquiries regarding this proposed Rule. A public hearing on this proposed Rule is scheduled for Tuesday, February 26, 2008 at 9:30 a.m. in Room 118, Bienville Building, 628 North 4th Street, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for the receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Roxane A. Townsend, M.D.
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Home Health Services—Extended
Nursing Services Reimbursement Rate Increase**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO
STATE OR LOCAL GOVERNMENT UNITS (Summary)**

It is anticipated that the implementation of this proposed rule will result in an estimated increase in expenses to the state of \$1,179,867 for FY 07-08, \$1,481,695 for FY 08-09, and \$1,540,963 for FY 09-10. It is anticipated that \$272 (\$136 SGF and \$136 FED) will be expended in FY 07-08 for the state's administrative expense for promulgation of this proposed rule and the final rule.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE
OR LOCAL GOVERNMENTAL UNITS (Summary)**

It is anticipated that the implementation of this proposed rule will increase federal revenue collections by approximately \$3,000,882 for FY 07-08, \$3,735,541 for FY 08-09, and \$3,884,962 for FY 09-10. It is anticipated that \$136 will be expended in FY 07-08 for the federal administrative expenses for promulgation of this proposed rule and the final rule.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO
DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL
GROUPS (Summary)**

This rule, which continues the provisions of the July 20, 2007 Emergency Rule, proposes to increase the rates paid for extended nursing services in the Home Health Program (approximately 700,000 hours of service per year). It is anticipated that implementation of this proposed rule will increase program expenditures in the Home Health program by approximately \$4,180,477 for FY 07-08, \$5,217,236 for FY 08-09 and \$5,425,925 for FY 09-10.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT
(Summary)**

It is anticipated that the implementation of this rule will have a positive effect on competition and employment by assisting providers to recruit and retain sufficient nursing

Jerry Phillips
Medicaid Director
0801#090

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Health and Hospitals
Office of the Secretary
Bureau of Health Services Financing**

Hospital Services—Inpatient Hospitals—Disproportionate
Share Hospital Payment Methodologies
(LAC 50:V.Chapters 25 and 27)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing proposes to repromulgate the provisions governing disproportionate share hospital (DSH) payment methodologies for inpatient hospitals in LAC 50:V.Chapters 25-29 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950, et seq.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing promulgated an Emergency Rule to repeal and replace all Rules governing disproportionate share hospital payment methodologies (*Louisiana Register*, Volume 31, Number 6). In compliance with Act 182 and Act 323 of the 2005 Regular Session, the June 20, 2005 Emergency Rule was amended to establish provisions for provider fees levied on hospitals as a result of the Healthcare Affordability Act (*Louisiana Register*, Volume 31, Number 7) and to revise the definition of a small rural hospital (*Louisiana Register*, Volume 31, Number 9). The June 20, 2005 Rule was subsequently amended to incorporate the provisions of the July 1, 2005 and September 1, 2005 Emergency Rules (*Louisiana Register*, Volume 31, Number 10).

The October 25, 2005 Emergency Rule was amended to: 1) change the provisions governing DSH payments to other uninsured hospitals; 2) establish provisions governing payments to private community hospitals for services rendered to displaced, uninsured citizens from mandatory evacuation parishes affected by Hurricanes Katrina and Rita; 3) change the provisions governing DSH payments to high uninsured hospitals and to establish provisions governing payments to public community hospitals (*Louisiana Register*, Volume 32, Number 7); and 4) revise the provisions governing disproportionate share hospital payments to non-rural community hospitals as a result of the allocation of additional funds by the Legislature during the 2006 Regular Session (*Louisiana Register*, Volume 32, Number 9). The department subsequently amended the October 25, 2005 Emergency Rule to incorporate the provisions of the June 28, 2006 and September 15, 2006 Emergency Rules (*Louisiana Register*, Volume 32, Number 10) and to revise the definition of a small rural hospital (*Louisiana Register*, Volume 33, Number 1). The department amended the October 23, 2006 Emergency Rule to incorporate the provisions of the December 18, 2006 Emergency Rule (*Louisiana Register*, Volume 33, Number 2). In compliance with the directives of Act 6 of the 2007 Regular Session of the Louisiana Legislature, the department amended the February 21, 2007 Emergency Rule to revise the DSH qualifications and reimbursement methodologies for the state fiscal year 2007 payment to non-rural community hospitals (*Louisiana Register*, Volume 33, Number 7).

Act 18 of the 2007 Regular Session of the Louisiana Legislature authorized expenditures to the Medical Vendor Program for disproportionate share payments to non-rural community hospitals for state fiscal year 2008. In compliance with the directives of Act 18, the department promulgated an Emergency Rule to repeal the provisions of the June 27, 2007 Emergency Rule governing DSH payments to public and private community hospitals, and to repeal and replace the provisions governing non-rural community hospitals (*Louisiana Register*, Volume 33, Number 10). The department now proposes to repromulgate the provisions of the October 20, 2007 Emergency Rule in LAC 50:V.Chapters 25-29.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part V. Medical Assistance Program—Hospital Services

Subpart 3. Disproportionate Share Hospital Payments

Chapter 25. Disproportionate Share Hospital Payment Methodologies

§2501. General Provisions

A. The reimbursement methodology for inpatient hospital services incorporates a provision for an additional payment adjustment for hospitals serving a disproportionate share of low income patients.

B. The following provisions govern the disproportionate share hospital (DSH) payment methodologies for qualifying hospitals.

1. Total cumulative disproportionate share payments under any and all disproportionate share hospital payment methodologies shall not exceed the federal disproportionate share state allotment for Louisiana for each federal fiscal year or the state appropriation for disproportionate share

payments for each state fiscal year. The department shall make necessary downward adjustments to hospital's disproportionate share payments to remain within the federal disproportionate share allotment and the state disproportionate share appropriated amount.

2. Appropriate action including, but not limited to, deductions from DSH, Medicaid payments and cost report settlements shall be taken to recover any overpayments resulting from the use of erroneous data, or if it is determined upon audit that a hospital did not qualify.

3. DSH payments to a hospital determined under any of the methodologies described in this Subpart 3 shall not exceed the hospital's net uncompensated cost as defined in Chapter 27 or the disproportionate share limits as defined in Section 1923(g)(1)(A) of the Social Security Act for the state fiscal year to which the payment is applicable. Any Medicaid profit shall be used to offset the cost of treating the uninsured in determining the hospital specific DHH limits.

4. Qualification is based on the hospital's latest filed cost report and related uncompensated cost data as required by the department. Qualification for small rural hospitals is based on the latest filed cost report. Hospitals must file cost reports in accordance with Medicare deadlines, including extensions. Hospitals that fail to timely file Medicare cost reports and related uncompensated cost data will be assumed to be ineligible for disproportionate share payments. Only hospitals that return timely disproportionate share qualification documentation will be considered for disproportionate share payments. After the final payment during the state fiscal year has been issued, no adjustment will be given on DSH payments with the exception of public state-operated hospitals, even if subsequently submitted documentation demonstrates an increase in uncompensated care costs for the qualifying hospital. For hospitals with distinct part psychiatric units, qualification is based on the entire hospital's utilization.

5. Hospitals shall be notified by letter at least 60 days in advance of calculation of DSH payment to submit documentation required to establish DSH qualification. Only hospitals that timely return DSH qualification documentation will be considered for DSH payments. The required documents are:

- a. obstetrical qualification criteria;
- b. low income utilization revenue calculation;
- c. Medicaid cost report; and
- d. uncompensated cost calculation.

6. Hospitals and/or units which close or withdraw from the Medicaid Program shall become ineligible for further DSH pool payments for the remainder of the current DSH pool payment cycle and thereafter.

C. A hospital receiving DSH payments shall furnish emergency and non-emergency services to uninsured persons with family incomes less than or equal to 100 percent of the federal poverty level on an equal basis to insured patients.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:

§2503. Disproportionate Share Hospital Qualifications

A. In order to qualify as a disproportionate share hospital, a hospital must:

1. have at least two obstetricians who have staff privileges and who have agreed to provide obstetric services to individuals who are Medicaid eligible. In the case of a hospital located in a rural area (i.e., an area outside of a metropolitan statistical area), the term *obstetrician* includes any physician who has staff privileges at the hospital to perform nonemergency obstetric procedures; or

2. treat inpatients who are predominantly individuals under 18 years of age; or

3. be a hospital which did not offer nonemergency obstetric services to the general population as of December 22, 1987; and

4. have a utilization rate in excess of one or more of the following specified minimum utilization rates:

a. Medicaid utilization rate is a fraction (expressed as a percentage). The numerator is the hospital's number of Medicaid (Title XIX) inpatient days. The denominator is the total number of the hospital's inpatient days for a cost reporting period. Inpatient days include newborn and psychiatric days and exclude swing bed and skilled nursing days. Hospitals shall be deemed disproportionate share providers if their Medicaid utilization rates are in excess of the mean, plus one standard deviation of the Medicaid utilization rates for all hospitals in the state receiving payments; or

b. hospitals shall be deemed disproportionate share providers if their low-income utilization rates are in excess of 25 percent. Low-income utilization rate is the sum of:

i. the fraction (expressed as a percentage). The numerator is the sum (for the period) of the total Medicaid patient revenues plus the amount of the cash subsidies for patient services received directly from state and local governments. The denominator is the total amount of revenues of the hospital for patient services (including the amount of such cash subsidies) in the cost reporting period from the financial statements; and

ii. the fraction (expressed as a percentage). The numerator is the total amount of the hospital's charges for inpatient services which are attributable to charity (free) care in a period, less the portion of any cash subsidies as described in §2503.A.4.b.i in the period which are reasonably attributable to inpatient hospital services. The denominator is the total amount of the hospital's charges for inpatient hospital services in the period. For public providers furnishing inpatient services free of charge or at a nominal charge, this percentage shall not be less than zero. This numerator shall not include contractual allowances and discounts (other than for indigent patients ineligible for Medicaid), i.e., reductions in charges given to other third-party payers, such as HMOs, Medicare, or Blue Cross; nor charges attributable to Hill-Burton obligations. A hospital providing "free care" must submit its criteria and procedures for identifying patients who qualify for free care to the Bureau of Health Services Financing for approval. The policy for free care must be posted prominently and all patients must be advised of the availability of free care and the procedures for applying. Hospitals not in compliance with free care criteria will be subject to recoupment of DSH and Medicaid payments; or

5. effective November 3, 1997, be a small rural hospital as defined in §2705.A.2.a-h; or

6. effective September 15, 2006, be a non-rural community hospital as defined in §2701.A.; and

7. effective July 1, 1994, must also have a Medicaid inpatient utilization rate of at least 1 percent.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:

Chapter 27. Qualifying Hospitals

§2701. Non-Rural Community Hospitals

A. Definitions

Non-Rural Community Hospital—a non-state hospital that does not receive disproportionate share payments under any other qualification category. These hospitals may be either publicly or privately owned. In addition, psychiatric, rehabilitation and long term hospitals may qualify for this category.

B. DSH payments to a public, non-rural community hospital shall be calculated as follows.

1. Each qualifying public, non-rural community hospital shall certify to the Department of Health and Hospitals its uncompensated care costs. The basis of the certification shall be 100 percent of the hospital's allowable costs for these services, as determined by the most recently filed Medicare/Medicaid cost report. The certification shall be submitted in a form satisfactory to the department no later than October 1st of each fiscal year. The department will claim the federal share for these certified public expenditures. The department's subsequent reimbursement to the hospital shall be in accordance with the qualifying criteria and payment methodology for non-rural community hospitals included in Act 18 and may be more or less than the federal share so claimed. Qualifying public, non-rural community hospitals that fail to make such certifications by October 1st may not receive Title XIX claim payments or any disproportionate share payments until the department receives the required certifications.

C. Private, non-rural community hospitals located in the New Orleans and Lake Charles Metropolitan Statistical Areas (MSA) shall be reimbursed as follows.

1. If the hospital's qualifying uninsured cost is less than 3.5 percent of total hospital cost, the payment shall be 30 percent of qualifying uninsured cost.

2. If the hospital's qualifying uninsured cost is equal to or greater than 3.5 percent of the total hospital cost, but less than 6.5 percent, the payment shall be 50 percent of qualifying uninsured cost.

3. If the hospital's qualifying uninsured cost is equal to or greater than 6.5 percent of total hospital cost, but less than or equal to 8 percent, the payment shall be 80 percent of qualifying uninsured cost.

4. If the hospital's qualifying uninsured cost is greater than 8 percent of total hospital cost, the payment shall be 90 percent of qualifying uninsured cost for the portion in excess of 8 percent and 80 percent of qualifying uninsured cost for the portion equal to 8 percent of total hospital cost.

D. Private, non-rural community hospitals located in all other parts of the state shall be reimbursed as follows.

1. If the hospital's qualifying uninsured cost is less than 3.5 percent of total hospital cost, no payment shall be made.

2. If the hospital's qualifying uninsured cost is equal to or greater than 3.5 percent of total hospital cost, but less than 6.5 percent, the payment shall be 50 percent of an amount equal to the difference between the total qualifying uninsured cost as a percent of total hospital cost and 3.5 percent of total hospital cost.

3. If the hospital's qualifying uninsured cost is equal to or greater than 6.5 percent of total hospital cost, but less than or equal to 8 percent, the payment shall be 80 percent of an amount equal to the difference between the total qualifying uninsured cost as a percent of total hospital cost and 3.5 percent of total hospital cost.

4. If the hospital's qualifying uninsured cost is greater than 8 percent of total hospital cost, the payment shall be 90 percent of qualifying uninsured cost for the portion in excess of 8 percent of total hospital cost and 80 percent of an amount equal to 4.5 percent of total hospital cost.

5. Qualifying uninsured cost as used for this distribution shall mean the hospital's total charges for care provided to uninsured patients multiplied by the hospital's appropriate cost-to-charge ratio for the applicable cost report period.

E. The department shall determine each qualifying hospital's uninsured percentage on a hospital-wide basis utilizing charges for dates of service from July 1, 2006 through June 30, 2007.

F. Hospitals shall submit supporting patient specific data in a format specified by the department, reports on their efforts to collect reimbursement for medical services from patients to reduce gross uninsured costs and their most current year-end financial statements. Those hospitals that fail to provide such statements shall receive no payments and any payment previously made shall be refunded to the department. The deadline for submission of data used to determine qualification and the initial payment is November 20, 2007. Submitted hospital charge data must agree with the hospital's monthly revenue and usage reports which reconcile to the monthly and annual financial statements. The submitted data shall be subject to verification by the department before DSH payments are made.

G. In the event that the total payments calculated for all recipient hospitals are anticipated to exceed the total amount appropriated, the department shall reduce payments on a pro rata basis in order to achieve a total cost that is not in excess of the amounts appropriated for this purpose. The \$87,000,000 appropriation for the non-rural community hospital pool shall be effective only for state fiscal year 2008 and distributions from the pool shall be considered nonrecurring.

H. Of the total appropriation for the non-rural community hospital pool, \$7,000,000 shall be allocated to public and private non-rural community hospitals with a distinct part psychiatric unit.

1. To qualify for this payment, hospitals must be a public or private non-rural community hospital, as defined in §2701.A., that has a Medicaid enrolled distinct part psychiatric unit with uninsured cost of 3.5 percent or greater, as defined in §2701.D.5.

2. Payment shall be calculated by dividing each qualifying hospital's distinct part psychiatric unit's uninsured days by all qualifying psychiatric unit qualifying uninsured days and multiplying by \$7,000,000.

I. The DSH payment shall be made as an annual lump sum payment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:

§2703. Federally Mandated Statutory Hospitals Not Included In Any Other Group

A. Definition

Federally Mandated Statutory Hospital Not Included In Any Other Group—a hospital that meets the federal DSH statutory utilization requirements in §2503.A.4.a-b.ii. and is not included in any other qualifying group.

B. DSH payments to individual federally mandated statutory hospitals shall be based on actual paid Medicaid days for a six-month period ending on the last day of the last month of that period, but reported at least 30 days preceding the date of payment. Annualization of days for the purposes of the Medicaid days pool is not permitted. The amount will be obtained by DHH from a report of paid Medicaid days by service date.

C. Disproportionate share payments for individual hospitals in this group shall be calculated based on the product of the ratio determined by:

1. dividing each qualifying hospital's actual paid Medicaid inpatient days for a six-month period ending on the last day of the month preceding the date of payment (which will be obtained by the department from a report of paid Medicaid days by service date) by the total Medicaid inpatient days obtained from the same report of all qualified hospitals included in this group. Total Medicaid inpatient days include Medicaid nursery days but do not include skilled nursing facility or swing-bed days; then

2. multiplying by the state disproportionate share appropriated amount for this pool of hospitals.

D. A pro rata decrease necessitated by conditions specified in §2501.B.1-6 for hospitals in this group will be calculated based on the ratio determined by:

1. dividing the hospitals' Medicaid days by the Medicaid days for all qualifying hospitals in this group; then

2. multiplying by the amount of disproportionate share payments calculated in excess of the federal disproportionate share allotment or the state disproportionate share appropriated amount.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:

§2705. Small Rural Hospitals

A. Definitions

Net Uncompensated Cost—the cost of furnishing inpatient and outpatient hospital services, net of Medicare costs, Medicaid payments (excluding disproportionate share payments), costs associated with patients who have insurance for services provided, private payer payments, and all other inpatient and outpatient payments received from patients. Any uncompensated costs of providing health care services in a rural health clinic licensed as part of a small rural hospital as defined below shall be considered outpatient hospital services in the calculation of uncompensated costs.

Small Rural Hospital—a hospital (excluding a long-term care hospital, rehabilitation hospital, or freestanding psychiatric hospital but including distinct part psychiatric units) that meets the following criteria:

- a. had no more than 60 hospital beds as of July 1, 1994 and is located in a parish with a population of less than 50,000 or in a municipality with a population of less than 20,000; or
- b. meets the qualifications of a sole community hospital under 42 CFR §412.92(a); or
 - i. met the qualifications of a sole community hospital as of June 30, 2005 and subsequently converts to critical access hospital status; or
- c. had no more than 60 hospital beds as of July 1, 1999 and is located in a parish with a population of less than 17,000 as measured by the 1990 census; or
- d. had no more than 60 hospital beds as of July 1, 1997 and is a publicly-owned and operated hospital that is located in either a parish with a population of less than 50,000 or a municipality with a population of less than 20,000; or
- e. had no more than 60 hospital beds as of June 30, 2000 and is located in a municipality with a population, as measured by the 1990 census, of less than 20,000; or
- f. had no more than 60 beds as of July 1, 1997 and is located in a parish with a population, as measured by the 1990 and 2000 census, of less than 50,000; or
- g. was a hospital facility licensed by the department that had no more than 60 hospital beds as of July 1, 1994, which hospital facility:
 - i. has been in continuous operation since July 1, 1994;
 - ii. is currently operating under a license issued by the department; and
 - iii. is located in a parish with a population, as measured by the 1990 census, of less than 50,000; or
- h. has no more than 60 hospital beds or has notified the department as of March 7, 2002 of its intent to reduce its number of hospital beds to no more than 60, and is located in a municipality with a population of less than 13,000 and in a parish with a population of less than 32,000 as measured by the 2000 census; or
 - i. has no more than 60 hospital beds or has notified DHH as of December 31, 2003 of its intent to reduce its number of hospital beds to no more than 60 and is located:
 - i. as measured by the 2000 census, in a municipality with a population of less than 7,000;
 - ii. as measured by the 2000 census, in a parish with a population of less than 53,000; and
 - iii. within 10 miles of a United States military base; or
 - j. has no more than 60 hospital beds as of September 26, 2002 and is located:
 - i. as measured by the 2000 census, in a municipality with a population of less than 10,000; and
 - ii. as measured by the 2000 census, in a parish with a population of less than 33,000; or
 - k. has no more than 60 hospital beds as of January 1, 2003 and is located:
 - i. as measured by the 2000 census, in a municipality with a population of less than 11,000; and

- ii. as measured by the 2000 census, in a parish with a population of less than 90,000; or

1. has no more than 40 hospital beds as of January 1, 2005, and is located:

- i. in a municipality with a population of less than 3,100; and

- ii. in a parish with a population of less than 15,800 as measured by the 2000 census.

B. Payment based on uncompensated cost for qualifying small rural hospitals shall be in accordance with the following two pools.

1. *Public (Nonstate) Small Rural Hospitals*—small rural hospitals as defined in §2705.A.2 which are owned by a local government.

2. *Private Small Rural Hospitals*—small rural hospitals as defined in §2705.A.2 that are privately owned.

C. Payment to hospitals included in §2705.B.1-2 is equal to each qualifying rural hospital's pro rata share of uncompensated cost for all hospitals meeting these criteria for the latest filed cost report multiplied by the amount set for each pool. If the cost reporting period is not a full period (12 months), actual uncompensated cost data from the previous cost reporting period may be used on a pro rata basis to equate a full year.

D. Pro Rata Decrease

1. A pro rata decrease necessitated by conditions specified in §2501.B.1-6 for rural hospitals described in this §2705 will be calculated using the ratio determined by:

- a. dividing the qualifying rural hospital's uncompensated costs by the uncompensated costs for all rural hospitals in §2705; then

- b. multiplying by the amount of disproportionate share payments calculated in excess of the federal DSH allotment or the state DSH appropriated amount.

2. No additional payments shall be made after the final payment is disbursed by the department for the state fiscal year. Recoupment shall be initiated upon completion of an audit if it is determined that the actual uncompensated care costs for the state fiscal year for which the payment is applicable is less than the actual amount paid.

E. Qualifying hospitals must meet the definition for a small rural hospital contained in §2705.A.2. Qualifying hospitals must maintain a log documenting the provision of uninsured care as directed by the department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:

§2707. Public State-Operated Hospitals

A. Definitions

Net Uncompensated Cost—the cost of furnishing inpatient and outpatient hospital services, net of Medicare costs, Medicaid payments (excluding disproportionate share payments), costs associated with patients who have insurance for services provided, private payer payments, and all other inpatient and outpatient payments received from patients.

Public State-Operated Hospital—a hospital that is owned or operated by the state of Louisiana.

B. DSH payments to individual public state-owned or operated hospitals shall be up to 100 percent of the hospital's net uncompensated costs. Final payment will be based on the uncompensated cost data per the audited cost report for the period(s) covering the state fiscal year.

C. In the event that it is necessary to reduce the amount of disproportionate share payments to remain within the federal disproportionate share allotment, the department shall calculate a pro rata decrease for each public state-owned or operated hospital based on the ratio determined by:

1. dividing that hospital's uncompensated cost by the total uncompensated cost for all qualifying public state-owned or operated hospitals during the state fiscal year; then

2. multiplying by the amount of disproportionate share payments calculated in excess of the federal disproportionate allotment.

D. It is mandatory that hospitals seek all third party payments including Medicare, Medicaid and other third party carriers and payments from patients. Hospitals must certify that excluded from net uncompensated cost are any costs for the care of persons eligible for Medicaid at the time of registration. Acute hospitals must maintain a log documenting the provision of uninsured care as directed by the department. Hospitals must adjust uninsured charges to reflect retroactive Medicaid eligibility determination. Patient specific data is required after July 1, 2003. Hospitals shall annually submit:

1. an attestation that patients whose care is included in the hospitals' net uncompensated cost are not Medicaid eligible at the time of registration; and

2. supporting patient-specific demographic data that does not identify individuals, but is sufficient for audit of the hospitals' compliance with the Medicaid ineligibility requirement as required by the department, including:

- a. patient age;
- b. family size;
- c. number of dependent children; and
- d. household income.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:

Implementation of the provisions of this Rule shall be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services.

Family Impact Statement

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule will have no impact on family functioning, stability or autonomy as described in R.S. 49:972.

Interested persons may submit written comments to Jerry Phillips, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to inquiries regarding this proposed Rule. A public hearing on this proposed Rule is scheduled for Tuesday, February 26, 2008 at 9:30 a.m. in Room 118, Bienville Building, 628 North 4th Street, Baton Rouge, LA.

At that time all interested individuals will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for the receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Roxane A. Townsend, M.D.
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Hospital Services—Inpatient Hospitals Disproportionate Share Hospital Payment Methodologies

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that the implementation of this proposed rule will result in an estimated increase in expenses to the state of \$29,040,482 for FY 07-08. The anticipated expenses for FY 08-09 and FY 09-10 are indeterminable since future disproportionate share hospital (DSH) appropriation amounts are unknown. It is anticipated that \$1,768 (\$884 SGF and \$884 FED) will be expended in FY 07-08 for the state's administrative expense for promulgation of this proposed rule and the final rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that the implementation of this proposed rule will increase federal revenue collections by approximately \$73,865,602 for FY 07-08. Federal revenue collections for FY 08-09 and FY 09-10 are indeterminable since future DSH appropriation amounts are unknown. It is anticipated that \$884 will be expended in FY 07-08 for the federal administrative expenses for promulgation of this proposed rule and the final rule.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This rule, which repromulgates the provisions of the October 20, 2007 emergency rule in LAC 50:V.Chapters 25-29, proposes to repeal and replace all rules governing disproportionate share hospital (DSH) payment methodologies (90 hospitals). It incorporates the following provisions from previous emergency rules that comprise the current DSH payment methodologies: 1) general provisions for inpatient hospital DSH participation (no fiscal impact); 2) DSH hospital qualifications (no fiscal impact); and the payment methodology for non-rural community hospitals (\$87,000,000 increase), federally mandated statutory hospitals (\$1,713,731 increase), rural hospitals (\$14,190,585 increase) and publically operated (state) hospitals (no fiscal impact). It is anticipated that implementation of this proposed rule will increase program expenditures in the Medicaid Program by approximately \$102,904,316 for FY 07-08. Program expenditures for FY 08-09 and 09-10 are indeterminable since future appropriations of DSH funds are unknown.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

It is anticipated that the implementation of this rule will not have an effect on competition and employment.

Jerry Phillips
Medicaid Director
0801#089

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health and Hospitals Office of the Secretary Bureau of Health Services Financing

Minimum Licensing Standards for Adult Day Health Care (LAC 48:I.Chapter 11)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing proposes to adopt LAC 48:I.Chapter 11 in the Medical Assistance Program as authorized by R.S. 36:254 and R.S. 40:2120.41-2120.46, and pursuant to Title XIX of the Social Security Act. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health and Human Resources, Office of Family Security adopted a Rule to implement Adult Day Health Care as a Medicaid home and community based services waiver in the Medical Assistance Program (*Louisiana Register*, Volume 8, Number 3). The department subsequently adopted Rules to establish and later amend the provisions governing the standards for payment for this service program (*Louisiana Register*, Volumes 11, 13 and 14, Numbers 6, 3 and 11). The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing repromulgated the provisions governing adult day health care services in order to establish the standards in its rightful place in the *Louisiana Administrative Code* (*Louisiana Register*, Volumes 23 and 30, Number 9). The department now proposes to amend the standards for payment for adult day health care to remove those provisions governing licensing from LAC 50:XXI and repromulgate the licensing standards in LAC 48:I.

Title 48

PUBLIC HEALTH—GENERAL

Part I. General Administration

Subpart 3. Licensing and Certification

Chapter 11. Adult Day Health Care

Subchapter A. General Provisions

§1101. Introduction

A. The purpose of Adult Day Health Care (ADHC) services is to provide an alternative to or a possible prevention or delay of 24-hour institutional care by furnishing direct care for five or more hours per weekday to physically, mentally, or functionally impaired adults. The overall purpose is the protection of the health, safety, and well-being of participants attending ADHC facilities.

B. An ADHC facility shall have a written statement describing its philosophy as well as long-term and short-term goals. Provider program statement shall include goals that:

1. promote the participant's maximum level of independence;
2. maintain the participant's present level of functioning as long as possible, preventing or delaying further deterioration;
3. restore and rehabilitate the participant to the highest level of functioning;
4. provide support and education for families and other caregivers;

5. foster participation, socialization and peer interaction; and

6. serve as an integral part of the community services network and the long-term care continuum of services.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 40:2120.41-46.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 23:1149 (September 1997), amended by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 30:2034 (September 2004), repromulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:

§1103. Definitions

Activities of Daily Living (ADL)—the functions or tasks which are performed either independently or with supervision or assistance for mobility (i.e., transferring, walking, grooming, bathing, dressing and undressing, eating and toileting).

Adult Day Health Care (ADHC)—a medical model adult day care program designed to provide services for medical, nursing, social, and personal care needs to adults who are physically or mentally impaired. Such services are rendered for five or more hours during a 24-hour day, by utilizing licensed professionals in a community based nursing facility.

Adult Day Health Care (ADHC) Facility—any place owned or operated for profit or nonprofit by a person, society, agency, corporation, institution, or any group wherein two or more functionally impaired adults who are not related to the owner or operator of such agency are provided with adult day health care services.

Attending Physician—refers to a physician, currently licensed by the Louisiana State Board of Medical Examiners, who is designated by the participant or his personal representative as responsible for the direction of the participant's overall medical care.

Change of Ownership (CHOW)—refers to a change in the legal provider/entity responsible for the operation of the ADHC facility.

Chemical Restraint—any drug that is used for discipline or convenience and when it is not required to treat medical symptoms.

Complaints—allegations of non compliance with regulations filed by someone other than the provider.

Department—shall mean the Department of Health and Hospitals (DHH) and its representatives.

Direct Care Staff—unlicensed staff who provide personal care or other services and support to persons with disabilities or to the elderly to enhance their well-being, and who are involved in face to face direct contact with the participant.

Director—a full time person engaged in the day-to-day management of the facility in which management activities shall be the major function of the required duties.

Elopement—to slip away or run away.

Functionally Impaired Adults—persons 17 years of age or older who are physically and/or mentally impaired and require services and supervision for medical, nursing, social, and personal care needs.

Involuntary Discharge/Transfer—a discharge or transfer of the participant from the ADHC facility that is initiated by the facility.

Licensed Practical Nurse (LPN)—an individual currently licensed by the Louisiana State Board of Practical Nurse Examiners to practice practical nursing in Louisiana. The LPN works under the supervision of a registered nurse.

Minimal Harm—negative impact of injury causing the least possible physical or mental damage.

Participant—an individual who attends an adult day health care facility.

Physical Restraint—any manual method (ex: therapeutic or basket holds and prone or supine containment) or physical or mechanical device (ex: include arm splints, leg restraints, lap trays that the participant cannot remove easily. Posey belts, posey mittens, helmets) material, or equipment attached or adjacent to the participant's body that interferes or restricts freedom of movement or normal access to one's body and cannot be easily removed by the participant.

Plan of Care/Individualized Service Plan—an individualized written program of action for each participant's care based upon an assessment of the participant.

Program Manager—a full-time designated staff person, formerly known as the program director, who is responsible for carrying out the facility's individualized program for each participant.

Progress Notes—ongoing assessments of the participant which enable the staff to update the plan of care in a timely, effective manner.

Registered Nurse (RN)—an individual currently licensed by the Louisiana State Board of Nursing to practice professional nursing in Louisiana.

Personal Representative—an adult relative, friend or guardian of a participant who has an interest or responsibility in the participant's welfare. This individual may be designated by the participant to act on his/her behalf and should be notified in case of emergency and/or any change in the condition or care of the participant.

Revocation—action taken by the department to terminate an ADHC facility's license when the facility fails to comply with licensing regulations during the term of the existing license.

Social Service Designee—an individual responsible for arranging any medical and/or social services needed by the participant.

Voluntary Discharge/Transfer—a discharge or transfer of the participant from the ADHC facility that is initiated by the participant.

Volunteer—a person who provides services at an adult day health care facility without compensation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 40:2120.41-46.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 23:1149 (September 1997), amended by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 30:2034 (September 2004), repromulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:

§1105. Licensure Requirements

A. All ADHC facilities shall be licensed by the Department of Health and Hospitals (DHH). DHH is the only licensing authority for ADHC facilities in the State of Louisiana. It shall be unlawful to operate an ADHC facility

without possessing a current, valid license issued by DHH. The license shall:

1. be issued only to the person/entity named in the license application;
2. be valid only for the ADHC facility to which it is issued and only for the specific geographic address of the facility;
3. be valid for one year from the date of issuance, unless revoked prior to that date;
4. expire on the last day of the twelfth month after the date of issuance, unless otherwise renewed;
5. not be subject to sale, assignment, or other transfer, voluntary or involuntary; and
6. be posted in a conspicuous place on the licensed premises at all times.

B. The licensed provider is required to abide by and adhere to any state laws, rules, policy and procedure, manuals, or memorandums pertaining to ADHC facilities issued by DHH.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 40:2120.41-46.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 23:1149 (September 1997), amended by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 30:2034 (September 2004), repromulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:

§1107. Initial Application Process

A. An initial application packet for licensing as a ADHC shall be obtained from the department. A completed application packet for a ADHC facility shall be submitted to and approved by DHH prior to an applicant providing ADHC services. An applicant shall submit a completed initial licensing packet to DHH which shall include:

1. a completed ADHC licensure application and the non-refundable licensing fee as established by statute;
2. a copy of approval letter of the architectural facility plans from the State Department of Engineering and the Office of the State Fire Marshal;
3. a copy of on-site inspection report with approval for occupancy by the Office of the State Fire Marshal;
4. a copy of health inspection report with approval of occupancy report of the facility from the Office of Public Health;
5. a copy of criminal background checks on all owners;
6. a copy of any local approvals (such as zoning, building, fire, etc.) that may be required by the city, parish or local governmental authorities;
7. verification of sufficient assets equal to one hundred thousand dollars or the cost of three months of operations, whichever is less, or
8. a letter of credit equal to \$100,000 or the cost of three months of operation, whichever is less;
9. a business plan of operation and management;
10. documentation of service provision and payroll; and
11. a completed disclosure of ownership and control information form:
 - a. a privately owned facility shall have documents identifying the names and addresses of the owners;

b. a corporation, partnership or association shall identify the names and addresses of its members and officers. Where applicable, the entity shall have a charter, partnership agreement, constitution, articles of association or by-laws;

12. appropriate CLIA approval for certificate or waiver is required prior to initial survey.

B. If the licensing packet is incomplete and the applicant fails to submit additional requested information or fails to notify DHH of readiness for initial survey within 90 days of the date the initial application is received by DHH, the application will be closed. If the applicant is still interested in becoming an ADHC provider, the applicant must submit a new packet with another initial licensing fee.

C. Once the application packet is approved, the applicant will be notified of approval in writing along with instructions to request the initial licensing survey. The application packet must be approved prior to scheduling the initial licensing survey.

D. Applicants must be in compliance with all other state and local laws, regulations, and fees as required for the ADHC facility to be licensed.

E. When issued, the license will specify the service which the ADHC provider is authorized to provide and the maximum number of participants which may be served by the ADHC facility. The ADHC provider must continuously meet these terms; failure to do so may result in revocation of the license.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 40:2120.41-46.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 23:1149 (September 1997), amended by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 30:2034 (September 2004), repromulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:

§1109. Licensing Surveys

A. An initial licensing survey shall be conducted on-site at the ADHC facility to assure compliance with ADHC licensing standards. At the time of the initial survey, the facility shall have a capacity for at least two or more participants.

B. Major areas of compliance that will be reviewed on an initial survey include:

1. advisory board or governing body;
2. accessibility of executive;
3. authority to operate;
 - a. accounting records;
4. confidentiality and security of files;
 - a. administrative files; and
 - b. participant records;
5. orientation and training of staff;
6. personnel practices; and
7. abuse reporting.

C. Once an ADHC provider is licensed, the department shall conduct licensing surveys at intervals as deemed necessary by DHH to determine compliance with licensing regulations.

1. These surveys shall be unannounced and DHH staff must be given access to all areas of the facility and all relevant files.

2. DHH staff shall be allowed to see and speak with any staff or participant as required to conduct the survey.

D. The department shall conduct an investigation of any complaints received against an ADHC facility. The on-site visits for complaint investigations are unannounced.

E. A follow-up site visit will be conducted for any licensing survey or complaint investigation where deficiencies have been previously cited to ensure correction of the deficient practice(s).

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 40:2120.41-46.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 23:1149 (September 1997), amended by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 30:2034 (September 2004), repromulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:

§1111. Operational Requirements

A. In order for an ADHC facility to be considered operational and retain licensed status, the facility must meet the following conditions.

1. The facility must always have at least one employee on duty at the business location during daily hours of operation. Once a participant is admitted, all staff that are required to provide services on a full time basis must be on duty during operational hours.

2. There must be staff employed and available to be assigned to provide care and services to persons receiving services at all times.

3. The facility must have admitted up to at least two participants in the past 12 months prior to their licensure resurvey.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 40:2120.41-46.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 23:1149 (September 1997), amended by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 30:2034 (September 2004), repromulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:

§1113. Renewal Application

A. It shall be the responsibility of the ADHC facility to ensure that a renewal application is submitted to DHH at least 30 days prior to the expiration of the existing license. The renewal application packet shall include the most current fire inspection, public health inspection as well as appropriate renewal licensure fees.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 40:2120.41-46.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 23:1149 (September 1997), amended by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 30:2034 (September 2004), repromulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:

§1115. Types of Licenses and Expiration Dates

A. The department shall have authority to issue the following types of licenses.

1. A full license may be issued only to applicants that are in substantial compliance with all applicable federal, state, and local laws, rules and regulations. The license shall

be valid until the expiration date shown on the license unless the department determines otherwise.

2. A provisional license may be issued to an existing licensed ADHC provider that does not meet the criteria for full licensure. The provisional license shall be valid for not more than six months from the date of issuance. A provisional license may be issued for the following reasons including, but not limited to:

a. the ADHC provider has more than five deficient practices during any one survey or the scope and severity of any deficiency cited places participants at risk for more than minimal harm;

b. the ADHC has more than three valid complaints in a one licensed year period;

c. there is a documented incident placing a participant at risk;

d. the ADHC fails to correct deficient practices within 60 days of being cited, or at the time of the follow-up survey; or

e. there is documented evidence that the ADHC provider or any representative thereof, has bribed, or harassed, offered, paid for, or received anything of economic value to solicit or refer any individual to use the services of any particular ADHC facility.

B. In the event the initial licensing survey determines the ADHC facility is found non-compliant with any regulations that are determined to be a threat to the health and safety of the participant, the department shall deny the initial license.

C. A full license may be issued to an ADHC provider with a provisional license if, at the follow-up survey, the ADHC provider has corrected the deficient practice(s) cited during the initial survey.

1. A full license will be issued for the remainder of the year until the anniversary date of the ADHC license.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 40:2120.41-46.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 23:1149 (September 1997), amended by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 30:2034 (September 2004), repromulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:

§1117. Other Jurisdictional Approvals

A. The facility shall show appropriate evidence of compliance with all relevant standards, regulations and requirements established by federal, state, local and municipal regulatory bodies including, but not limited to the following:

1. the Office of Preventative and Public Health Services;

2. the Office of State Fire Marshal;

3. the City Fire Marshal or Fire Prevention Bureau, if applicable;

4. the fiscal and/or program review agencies within DHH;

5. the applicable local governing authorities, such as building and zoning; and

6. if federally funded, the applicable federal regulation authority for such funding.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 40:2120.41-46.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health

Services Financing, LR 23:1149 (September 1997), amended by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 30:2034 (September 2004), repromulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:

§1119. Reporting Requirements

A. The following changes, or any combination thereof, shall be reported in writing to the department within five working days of the occurrence of the change. A change in:

1. the name of the ADHC facility;

2. the geographical or mailing address;

3. contact information, i.e., telephone number, fax number, email address; or

4. key administrative staff (i.e., director, program manager, social worker, staff nurse, etc).

B. Change of Ownership (CHOW). The license of an ADHC facility is not transferable to any other ADHC or individual. A license cannot be sold. When a change of ownership (CHOW) occurs, the ADHC provider shall notify the Health Standards Section in writing within 15 days prior to the effective date of the CHOW.

1. A signed copy of the legal document showing the transfer of ownership shall be provided to Health Standards.

2. Other required documents are to be submitted to HSS within five working days of the effective date of the CHOW.

3. The new owner must submit all documents required for a new license including the licensing fee.

4. An ADHC facility that is under license revocation may not undergo a CHOW.

C. Any change which requires a change in the license shall be accompanied by a fee. Any request for a duplicate license shall be accompanied a fee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 40:2120.41-46.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 23:1149 (September 1997), amended by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 30:2034 (September 2004), repromulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:

§1121. Revocation of a License or Denial of a License Renewal

A. The department may deny an application for a license, refuse to renew a license or revoke a license in accordance with the provisions of the Administrative Procedure Act.

1. A license may be revoked or denied for renewal if applicable licensing requirements have not been met as determined by DHH.

2. There is no appeal if the license is expired.

B. An ADHC license may be revoked or not renewed for any of the following reasons, including but not limited to:

1. failure to be in substantial compliance with the ADHC licensing regulations;

2. failure to uphold participant rights whereby deficient practices may result in harm, injury or death of a participant;

3. failure to protect a participant from a harmful act of an employee including, but not limited to:

a. abuse neglect, exploitation, and/or extortion;

b. any action posing a threat to a participant's health and safety;

c. coercion;

- d. threat or intimidation; or
- e. harassment;
- 4. failure to notify the proper authorities of all suspected cases of neglect, criminal activity, mental or physical abuse, or any combination thereof;
- 5. to knowingly make a false statement in any of the following areas including, but not limited to:
 - a. application for licensure;
 - b. data forms;
 - c. participant records;
 - d. matters under investigation by the department or the Office of the Attorney General;
 - e. information submitted for reimbursement from any payment source;
 - f. the use of false, fraudulent or misleading advertising;
 - g. pleading guilty or nolo contendere to a felony or being convicted of a felony by an owner or administrator as documented by a certified copy of the record of the court of conviction. If the applicant is a firm or corporation, a license may also be immediately denied or revoked when any of its members, officers, or the person designated to manage or supervise the participant care has been convicted of a felony. For purposes of this paragraph, conviction of a felony means:
 - i. conviction of a felony relating to violence, abuse, and/or negligence of a person; or
 - ii. conviction of a felony related to the misappropriation of property belonging to another person;
 - 6. failure to comply with all reporting requirements in a timely manner as requested by the department;
 - 7. bribery, harassment, or intimidation of any participant designed to cause that participant to use the services of any particular ADHC provider; or
 - 8. non-operational status.

C. In the event a license is revoked or renewal is denied (for reasons other than non-operational status), no other ADHC license application shall be accepted by the department from the owners of the revoked or denied license for a period of two years from the date of the final disposition of the revocation or denial action.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 40:2120.41-46.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 23:1149 (September 1997), amended by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 30:2034 (September 2004), repromulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:

§1123. Notice and Appeal

A. Notice of the department's actions against an ADHC provider shall be given in accordance with the current state statutes.

B. Administrative Reconsideration. An ADHC provider may request an administrative reconsideration of a deficiency cited by the department. This is an informal process and shall be conducted by a designated official of the department who did not participate in the initial decision to impose the action taken. An administrative reconsideration shall be made solely on the basis of documents and/or oral presentations presented before the designated official. An administrative reconsideration is not

conducted in lieu of the administrative appeals process and does not extend the time limits for filing an administrative appeal under the provisions of APA.

1. At the time of the request for such reconsideration, the ADHC provider shall submit the survey report, statement of deficiency and any other supporting documentation to the department.

2. A department spokesman and an ADHC provider spokesman may make an oral presentation to the designated official during the administrative reconsideration.

3. The designated official shall have the authority to affirm or revoke the decision, to affirm part or revoke part of the decision, or to request additional information from either the department or the ADHC provider. Correction of a deficiency shall not be a basis for reconsideration.

C. Administrative Appeal Process. Upon denial or revocation of a license, or imposition of a fine by the department, the ADHC provider shall have the right to appeal such action by submitting a written request to the Bureau of Appeals within 30 days after receipt of the notification of the denial, revocation of a license, or imposition of a fine.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 40:2120.41-46.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 23:1149 (September 1997), amended by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 30:2034 (September 2004), repromulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:

Subchapter B. Administration and Organization

§1125. Governing Body

A. The facility shall have a governing body with responsibility as an authority over the policies and activities of the facility.

1. The facility shall have documents identifying the following information regarding the governing body:

- a. names and addresses of all members;
- b. terms of membership, if applicable;
- c. officers of the governing a body, if applicable;

and

- d. terms of office of all officers, if applicable.

2. When the governing body is composed of more than one person, formal meetings shall be held at least twice a year.

3. The governing body shall have by-laws specifying frequency of meetings and quorum requirements.

4. The facility shall have written minutes of all formal meetings of the governing body meetings.

5. A single person or owner may govern a privately owned and operated facility. This person would assume all responsibilities of the governing body.

B. Governing Body Responsibilities. The governing body of an ADHC facility shall:

1. ensure the facility's compliance and conformity with the facility's charter;

2. ensure the facility's continual compliance and conformity with all relevant federal, state, parish and municipal laws and regulations;

3. ensure that the facility is adequately funded and fiscally sound;

4. review and approve the facility's annual budget;

5. ensure that the facility is housed, maintained, staffed and equipped appropriately considering the nature of the program;

6. designate a person to act as the director/administrator and delegate sufficient authority to this person to manage the facility;

7. formulate and annually review, in consultation with the director/administrator, written policies concerning the facility's philosophy, goals, current services, personnel practice, and fiscal management;

8. annually evaluate the director/administrator's performance;

9. have the authority to dismiss the director/administrator;

10. meet with designated representative of DHH whenever required to do so; and

11. inform designated representatives of DHH prior to initiating any substantial changes in the program, services or physical plant of the facility.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 40:2120.41-46.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 23:1149 (September 1997), amended by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 30:2034 (September 2004), repromulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:

§1127. Accessibility of Director

A. The director/administrator, or a person authorized to act on his behalf, shall be accessible to facility staff or designated representatives of DHH at all times.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 40:2120.41-46.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 23:1149 (September 1997), amended by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 30:2034 (September 2004), repromulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:

§1129. Policy and Procedures

A. An ADHC facility shall have a written program plan describing the services and programs that it furnishes.

B. The facility shall have written policies and procedures governing all areas of care and services provided by the facility that are available to staff, participants, and/or sponsors. These policies and procedures shall:

1. ensure that each participant receives the necessary care and services to promote his/her highest level of functioning and well being;

2. reflect awareness of the total medical and psychosocial needs of participants as well as provisions for meeting those needs, including admission, transfer, and discharge planning; and the range of services available to participants;

3. be developed in consultation with a group of professional personnel consisting of at least a licensed physician, the director/administrator, and a registered nurse;

4. govern access, duplication, and dissemination of information from the participant's personal and medical record;

5. establish guidelines to protect any money or other personal items brought to the ADHC facility by participants;

6. describe the process for participants to file a grievance with the facility and/or register a complaint with the department:

a. the DHH toll-free telephone number for registering complaints shall be posted conspicuously in public areas of the ADHC facility;

7. be available to participant's physician of choice;

8. be revised as necessary, but reviewed by the professional group at least annually; and

9. be approved by the governing body.

B. The director/administrator, or his designee, is responsible for the execution of such policies.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 40:2120.41-46.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 23:1149 (September 1997), amended by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 30:2034 (September 2004), repromulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:

§1131. Fiscal Accountability

A. A facility shall establish a system of business management and staffing to assure maintenance of complete and accurate accounts, books and records.

B. A facility shall demonstrate fiscal accountability through regular recording of its finances.

C. A facility shall not permit funds to be paid or committed to be paid to any entity in which any member of the governing body or administrative personnel, or members of their immediate families, have any direct or indirect financial interest, or in which any of these persons serve as an officer or employee, unless the services or goods involved are provided at a competitive cost or under terms favorable to the facility.

1. The facility shall provide a written disclosure of any financial transaction regarding the facility in which a member of the governing body, administrative personnel, or his/her immediate family is involved.

D. The facility shall ensure that all entries in records are legible, signed by the person making the entry and accompanied by the date on which the entry was made.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 40:2120.41-46.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 23:1149 (September 1997), amended by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 30:2034 (September 2004), repromulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:

§1133. Administrative Records

A. A facility shall have administrative records that include:

1. documents identifying the governing body:

a. a list of the officers and members of the governing body, their addresses and terms of membership, if applicable;

b. by-laws of the governing body and minutes of formal meetings, if applicable;

2. documentation of the facility's authority to operate under state law;

3. an organizational chart for the facility;

4. all leases, contracts and purchase-of-service agreements to which the facility is a party;
5. insurance policies;
6. annual budgets and audit reports; and
7. a master list of all other programs and services used by the facility.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 40:2120.41-46.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 23:1149 (September 1997), amended by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 30:2034 (September 2004), repromulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:

§1135. Participant Case Records

A. A facility shall have an organized record system which includes a written case record for each participant. The case record shall contain administrative and treatment data from the time of admission until the time that the participant leaves the facility.

B. The participant's case record shall include:

1. identifying information such as name, birth date, home address, Social Security number, marital status, gender, ethnic group, and religion;
2. the name, address, and telephone number of the participant's personal representative, if applicable;
3. a social and medical history including:
 - a. a complete record of admitting diagnoses and any treatments that the participant is receiving;
 - b. history of serious illness, serious injury or major surgery;
 - c. allergies to medication;
 - d. a list of all prescribed medications and non-prescribed drugs currently used;
 - e. current use of alcohol; and
 - f. name of personal physician and an alternate;
4. complete health records, when available, including physical, dental and/or vision examinations;
5. a copy of the participant's individual service plan including:
 - a. any subsequent modifications; and
 - b. an appropriate summary to guide and assist direct service workers in implementing the participant's program;
6. the findings made in periodic reviews of the plan including:
 - a. a summary of the successes and failures of the participant's program; and
 - b. recommendations for any modifications deemed necessary;
7. a signed physician's order, issued prior to use, when restraints in any form are being used;
8. any grievances or complaints filed by the participant and the resolution or disposition of these grievances or complaints;
9. a log of the participant's attendance and absences;
10. a physician's signed and dated orders for medication, treatment, diet, and/or restorative and special medical procedures required for the safety and well-being of the participant;
11. progress notes that:
 - a. document the delivery of all services identified in the plan of care;

b. document that each staff member is carrying out the approaches identified in the plan of care that he/she is responsible for;

c. record the progress being made and discuss whether or not the approaches in the plan of care are working;

d. record any changes in the participant's medical condition, behavior or home situation which may indicate a need for a change in the plan of care; and

e. document the completion of incident reports, when appropriate; and

NOTE: Each individual responsible for providing direct services shall record progress notes at least weekly, but any changes to the participant's condition or normal routine should be documented on the day of the occurrence.

12. discharge planning and referral.

C. All entries made by facility staff in participants' records shall be legible, signed and dated.

D. The medications and treatments administered to participants at the facility must be charted by the appropriate staff.

E. The facility shall ensure that participant case records are available to staff who are directly involved with participant care.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 40:2120.41-46.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 23:1149 (September 1997), amended by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 30:2034 (September 2004), repromulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:

§1137. Retention of Records

A. All records shall be maintained in an accessible, standardized order and format and shall be retained and disposed of according to state laws. An ADHC facility shall have sufficient space, facilities and supplies for providing effective record-keeping services.

B. All records concerning past or present medical conditions of participants are confidential and must be maintained in compliance with the provisions of the Health Insurance Portability and Accountability Act (HIPAA) of 1996. The expressed written consent of the participant must be obtained prior to the disclosure of medical information regarding the participant.

C. The participant's medical record shall consist of the active participant record and the ADHC facility's storage files or folders. As this active record becomes bulky, the outdated information shall be removed and filed in the ADHC facility's storage files or folders. The active medical records shall contain the following information:

1. the necessary admission records;
2. at least six months of current pertinent information relating to the participant's active ongoing care; and
3. if the ADHC facility is aware that a participant has been interdicted, a statement to this effect shall be noted on the inside front cover of the record.

D. Upon request, the ADHC facility shall make all records, including participant records, available to the applicable federal and state regulatory agencies in order to determine the facility's compliance with applicable federal and state laws, rules and regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 40:2120.41-46.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 23:1149 (September 1997), amended by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 30:2034 (September 2004), repromulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:

§1139. Confidentiality and Security of Records

A. A facility shall have written procedures for the maintenance and security of records specifying who shall supervise the maintenance of records, who shall have custody of records, and to whom records may be released. Records shall be the property of the ADHC facility and as custodian, the facility shall secure records against loss, tampering or unauthorized use.

B. A facility shall maintain the confidentiality of all participants' case records. Employees of the facility shall not disclose or knowingly permit the disclosure of any information concerning the participant or his/her family, directly or indirectly, to any unauthorized person.

C. A facility shall obtain the participant's written, informed permission prior to releasing any information from which the participant or his/her family might be identified, except for authorized federal and state agencies or another program with professional interest in the participant.

D. The ADHC facility shall safeguard the confidentiality of participant information and shall release confidential information only under the following conditions:

1. by court order; or
2. by the participant's written authorization, unless contraindicated as documented in the participant's record by the attending physician.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 40:2120.41-46.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 23:1149 (September 1997), amended by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 30:2034 (September 2004), repromulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:

§1141. Fund-Raising and Publicity

A. An ADHC facility shall have a policy regarding participation of participants in activities related to fund-raising and publicity.

1. Consent of the participant and, where appropriate, the legally responsible person shall be obtained prior to participation in such activities.

B. A facility shall have written policies and procedures regarding the photographing and audio or audio-visual recordings of participants.

1. The written consent of the participant and, where appropriate, the legally responsible person shall be obtained before the participant is photographed or recorded for research or program publicity purposes.

2. All photographs and records shall be used in a manner which respects the dignity and confidentiality of the participant.

C. The responsibility of raising funds should not interfere with the director's administrative duties in conducting the program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 40:2120.41-46.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 23:1149 (September 1997), amended by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 30:2034 (September 2004), repromulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:

Subchapter C. Participant Rights

§1143. Statement of Rights

A. Each participant shall be informed of his/her rights and responsibilities regarding the ADHC facility. The regulations of the ADHC facility and all rules governing participant conduct and behavior shall be fully explained to the participant. Before or upon admission, the ADHC facility shall provide a copy of the participant rights document to each participant. Each participant must acknowledge receipt of this document in writing and the signed and dated acknowledgment form shall be filed in the participant's record.

B. If the ADHC facility changes its participant rights policies, each participant must acknowledge receipt of the change(s) in writing and the acknowledgment shall be filed in the participant's records.

C. The facility shall have a written policy on participant civil rights. This policy shall give assurances that:

1. a participant's civil rights are not abridged or abrogated solely as a result of placement in the ADHC facility's program; and
2. a participant is not denied admission, segregated into programs or otherwise subjected to discrimination on the basis of race, religion or ethnic background.

D. Participant rights document shall include at least the following items:

1. the right to be informed, in writing, of all services available at the ADHC facility, the charges for those services and the facility's hours of operation;
2. the right to participate in each interdisciplinary staffing meeting and any other meeting involving the care of the participant;
3. the right to refuse any service provided in the ADHC facility;
4. the right to present complaints or recommend changes regarding the facility's policies and services to staff or to outside representatives without fear of restraint, interference, coercion, discrimination or reprisal;
5. the right to be free from mental or physical abuse;
6. the right to be free from active or mechanical physical restraints, except when there is imminent risk of harm to the participant or others and only after the least restrictive methods have been attempted:
 - a. physical restraint shall be used only when ordered by the attending physician:
 - i. the physician's order for restraint must specify the reason for using restraint and include a specific time frame for using restraint;
 - ii. the physician order shall be filed in the participant's record;
 - b. physical restraint may be used without a physician's order in an emergency only under the following conditions:

i. use of restraint is necessary to protect the participant from injuring himself/herself or others; and

ii. use of restraint is reported at once to the attending physician;

c. participants who are mechanically restrained shall be monitored at least every 30 minutes to insure that circulation is not impaired and that positioning is comfortable;

d. participants being mechanically restrained shall be released and be provided the opportunity for exercise at least every two hours. ADHC facility staff shall document this activity each time the participant is released;

7. the right to be treated with consideration, respect and full recognition of his or her dignity and individuality;

8. the right to privacy during the provision of personal services;

9. the right to communicate, associate, and meet privately with individuals of his/her choice, unless this infringes on the rights of another participant; and

10. the right not to be required to perform services for the ADHC facility, except when the performance of a specific service is identified in the plan of care as an appropriate approach to meeting a need or resolving a problem of the participant.

E. A friendly, supportive, comfortable and safe atmosphere shall be maintained at all times, and all participants shall be treated equitably with respect, kindness, and patience.

F. Each participant shall be encouraged and assisted to exercise his/her rights as a participant at the ADHC facility and as a citizen.

G. Devolution of Participant Rights. If the participant rights have devolved to the personal representative or next of kin, that party shall receive the explanation of and sign the participant rights and any other documents described in these standards. Under the following conditions, the ADHC facility shall ensure that participant rights devolve to the personal representative or next of kin.

1. The participant has been interdicted in a court of law. In such cases, the ADHC facility shall ensure that the participant's rights devolve to the curator/curatrix of record. The ADHC facility shall obtain an official document verifying that the participant has indeed been interdicted and the interdiction must be documented on the inside front cover of the participant's record.

H. The facility shall allow representatives of DHH, in the performance of their mandated duties, to inspect all aspects of a program's functioning which impact participants and to interview any staff member or participant.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 40:2120.41-46.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 23:1149 (September 1997), amended by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 30:2034 (September 2004), repromulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:

Subchapter D. ADHC Facility Services

§1145. Mandatory Daily Program Components

A. There shall be a planned daily program of both individual and group activities which is sufficiently varied and structured so as to directly involve the participants in a

stimulated and meaningful use of time while at the facility. Emphasis shall be given to building on participant's former skills and developing new ones.

B. Participants shall be encouraged to take part in the planning and directions of activities. Programming shall allow for active and passive participation.

C. When available, community resources shall be used to provide educational programs, lectures, concerts, and similarly stimulating activities to participants.

D. An arts and crafts activities program shall be available to make use of the rehabilitative as well as the recreational values of such pastimes. A supply of materials adequate to accommodate all participants shall be on hand for this program.

E. An outdoor activities program, such as gardening or walking, shall be maintained where space, weather, and participant's health permit.

F. Reality orientation approach shall be available for disoriented and confused participants.

1. Group sessions shall be held in which participants are assisted by repetition to remember relevant information such as their names, where they are, what they had for breakfast, what activity they just participated in, etc.

2. Staff shall reinforce this approach by reminding participants of the next activity, other participants' names, and other concrete pieces of information on an individual basis.

G. A daily rest period shall be incorporated into the program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 40:2120.41-46.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 23:1149 (September 1997), amended by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 30:2034 (September 2004), repromulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:

§1147. Core Services

A. At a minimum, each facility shall provide the following services:

1. individualized training or assistance with the activities of daily living (toileting, grooming, ambulation, etc.);

2. health and nutrition counseling;

3. an individualized, daily exercise program;

4. an individualized, goal-directed recreation program;

5. daily health education;

6. medical and social care management which include the development of an individualized service plan;

7. one nutritionally balanced hot meal and two snacks served each day;

8. nursing services that include the following individualized health services:

a. monitoring vital signs appropriate to the diagnosis and medication regimen of each participant no less frequently than monthly;

b. administering medications and treatments in accordance with physicians orders;

c. initiating and developing a self administration of medication plan for the ADHC facility which is individualized for each participant for whom it is indicated; and

d. serving as a liaison between the participant and medical resources, including the treating physician; and

9. transportation to and from the facility.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 40:2120.41-46.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 23:1149 (September 1997), amended by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 30:2034 (September 2004), repromulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:

§1149. Transportation Requirements

A. The facility will provide transportation to and from the ADHC facility at the beginning and end of the program day. The facility must comply with the following requirements governing transportation.

1. The facility shall have liability insurance coverage and have proof of such coverage.

2. The facility must conform to all state laws and regulations pertaining to drivers, vehicles and insurance.

B. The driver shall hold a valid chauffeur's license or commercial driver license (CDL) with passenger endorsement.

1. The driver shall meet personal and health qualifications of other staff.

C. The number of occupants allowed in a car, bus, station wagon, van, or any other type of transportation shall not exceed the number for which the vehicle is designed.

D. Provisions shall be made to accommodate participants who use assistive devices for ambulation.

E. The vehicle shall be maintained in good repair.

F. In a facility-owned transportation vehicle, there shall be at least one staff member in the vehicle who is trained in first-aid and CPR.

G. If the facility contracts with a commercial proprietor for transportation, they shall select one with good reputation and reliable drivers. All rules established for transportation furnished by the facility shall be observed.

H. If the facility develops a policy that establishes a limited mileage radius for transporting participants, that policy must be submitted to DHH for review and approval prior to the facility being allowed to limit transportation for participants.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 40:2120.41-46.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 23:1149 (September 1997), amended by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 30:2034 (September 2004), repromulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:

Subchapter E. Participant Care

§1151. Medical Services

A. Medical services shall be provided by the participant's physician of choice.

B. The facility shall have a listing of available medical services for referral. When referrals are made, the facility shall follow-up to see that the participant is receiving services.

C. Appropriate staff shall immediately notify the participant's physician and responsible party of any

emergency, change in condition or injury to the participant that occurs at the facility.

1. In areas where 911 services are not available, the facility shall have means to transport participants for medical emergencies.

2. In cities or communities that have a city or community wide ambulance service (fire department or other emergency medical service), a statement in the facility files regarding available emergency transportation services and the method of contact for the service will be acceptable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 40:2120.41-46.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 23:1149 (September 1997), amended by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 30:2034 (September 2004), repromulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:

§1153. Nursing Service

A. All nursing services furnished in the ADHC facility shall be provided in accordance with acceptable nursing professional practice standards.

B. A registered nurse (RN) shall serve on the ID team and shall monitor the overall health needs of the participants.

1. The RN's responsibilities include medication review for each participant at least monthly and when there is a change in the medication regime to:

a. determine the appropriateness of the medication regime;

b. evaluate contraindications;

c. evaluate the need for lab monitoring;

d. make referrals to the attending physician for needed monitoring tests;

e. report the efficacy of the medications prescribed; and

f. determine if medications are properly being administered in the facility.

C. The RN shall supervise the method of medication administration to participants (both self-administration and staff administration).

D. The RN shall approve the method of medication storage and record-keeping.

E. The staff nurse shall document the receipt of all prescribed medications for each participant with a legible signature and will comply with all Louisiana law and rules regarding medication control and disbursement.

F. The RN shall give in-service training to both staff and participants on health related matters.

G. The RN shall ensure that diagnoses are compiled into a central location in the participant's record and updated when there is a change.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 40:2120.41-46.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 23:1149 (September 1997), amended by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 30:2034 (September 2004), repromulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:

§1155. Nutrition Services

A. There shall be a hot, well-balanced noon meal served daily which provides one-third of the recommended dietary

allowances (RDA) as established by the National Research Council and American Dietetic Association. Accommodations shall be made for participants with special diets.

1. There shall be a mid-morning snack served daily in facilities where breakfast is not served.

2. There shall be a mid-afternoon snack served daily.

B. Menus shall be varied and planned and approved well in advance by a registered dietitian. Any substitutions shall be of comparable nutritional value and documented.

C. All food and drink shall be of safe quality.

D. Drinking water shall be readily available and offered to participants.

E. Food preparation areas and utensils cleaning procedures shall comply with the State Sanitary Code.

F. A registered dietitian shall:

1. review all orders for special diets;

2. prepare menus as needed; and

3. provide in-service training to staff and, as appropriate, participants.

G. Documentation of these reviews and recommendations shall be available in the participant case record.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 40:2120.41-46.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 23:1149 (September 1997), amended by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 30:2034 (September 2004), repromulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:

§1157. Social Work Services

A. All social services shall be provided in accordance with acceptable professional social work practice standards.

B. Social workers shall serve on the ID team and shall monitor the overall social needs of the participant.

C. Social services, as a part of an interdisciplinary spectrum of services, shall be provided to the participants through the use of social work methods directed toward:

1. maximizing the social functioning of each participant;

2. enhancing the coping capacity of the participant and, as appropriate, his family; and

3. asserting and safeguarding the human and civil rights of participants and fostering the human dignity and personal worth of each participant.

D. While the participant is receiving ADHC services, the social worker shall, as appropriate, serve as a liaison between the participant and the facility, their family and the community.

E. Social workers shall assist the participant and his/her family, as appropriate, in accessing other community placements as needed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 40:2120.41-46.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 23:1149 (September 1997), amended by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 30:2034 (September 2004), repromulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:

Subchapter F. Human Resources

§1159. Personnel Policies

A. An ADHC shall have personnel policies that include:

1. a written plan for recruitment, screening, orientation, in-service training, staff development, supervision and performance evaluation of all staff members;

2. written job descriptions for each staff position, including volunteers;

3. a health assessment which includes, at a minimum, evidence that the employee is free of active tuberculosis and that staff are retested on a time schedule as mandated by the Office of Public Health;

4. a written employee grievance procedure;

5. abuse reporting procedures that require all employees to report any incidents of abuse or mistreatment whether the abuse or mistreatment is committed by another staff member, a family member or any other person; and

6. prevention of discrimination.

B. A facility shall not discriminate in recruiting or hiring on the basis of sex, race, creed, national origin or religion.

C. A facility's screening procedures shall address the prospective employee's qualifications, ability, related experience, health, character, emotional stability and social skills as related to the appropriate job description.

1. A facility shall obtain written references from three persons (or prepare documentation based on telephone contacts with three persons) prior to making an offer of employment. The names of the references and a signed release must be obtained from the potential employee.

D. Annual performance evaluations shall be completed for all staff members.

1. For any person who interacts with participants, the performance evaluation procedures shall address the quality and nature of a staff member's relationships with participants.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 40:2120.41-46.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 23:1149 (September 1997), amended by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 30:2034 (September 2004), repromulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:

§1161. Orientation and Training

A. A facility's orientation program shall provide training for new employees to acquaint them with the philosophy, organization, program, practices and goals of the facility. The orientation shall also include instruction in safety and emergency procedures as well as the specific responsibilities of the employee's job.

B. A facility shall document that all employees receive training on an annual basis in:

1. the principles and practices of participant care;

2. the facility's administrative procedures and programmatic goals;

3. emergency and safety procedures;

4. protecting the participant's rights;

5. procedures and legal requirements concerning the reporting of abuse and neglect;

6. acceptable behavior management techniques;

7. crisis management; and

8. use of restraints (manual method, mechanical or physical devices).

C. All non-licensed direct care staff must meet the minimum mandatory qualifications and requirements for direct service workers as required by R.S. 40:2179-2179.1 and be registered on the Louisiana Direct Service Worker Registry.

D. A facility shall ensure that each direct service worker completes no less than 20 hours of face-to-face training per year. Orientation and normal supervision shall not be considered for meeting this requirement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 40:2120.41-46.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 23:1149 (September 1997), amended by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 30:2034 (September 2004), repromulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:

§1163. Personnel Files

A. An ADHC facility shall have a personnel file for each employee that shall contain:

1. the application for employment and/or resume;
2. reference letters from former employer(s) and personal references or written documentation based on telephone contact with such references;
3. any required medical examinations;
4. evidence of applicable professional credentials/certifications according to state law;
5. annual performance evaluations;
6. personnel actions, other appropriate materials, reports and notes relating to the individual's employment with the facility; and
7. employee's starting and termination dates.

B. The staff member shall have reasonable access to his/her file and shall be allowed to add any written statement that he/she wishes to make to the file at any time.

C. An ADHC facility shall retain an employee's personnel file for at least three years after the employee's termination of employment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 40:2120.41-46.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 23:1149 (September 1997), amended by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 30:2034 (September 2004), repromulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:

Subchapter G. Facility Responsibilities

§1165. General Provisions

A. A facility shall employ a sufficient number of qualified staff and delegate sufficient authority to such staff to ensure that the facility's responsibilities are carried out and that the following functions are adequately performed:

1. administrative functions;
2. fiscal functions;
3. clerical functions;
4. housekeeping, maintenance and food service functions;
5. direct service functions;
6. supervisory functions;
7. record-keeping and reporting functions;

8. social services functions; and

9. ancillary service functions.

B. The facility shall ensure that all staff members are properly certified and/or licensed as legally required.

C. The facility shall ensure that an adequate number of qualified direct service staff is present with the participants as necessary to ensure the health, safety and well-being of participants.

1. Staff coverage shall be maintained in consideration of the time of day, the size and nature of the facility and the needs of the participants.

D. The facility shall not knowingly hire, or continue to employ, any person whose health, educational achievement, emotional or psychological makeup impairs his/her ability to properly protect the health and safety of the participants or is such that it would endanger the physical or psychological well-being of the participants.

1. This requirement is not to be interpreted to exclude the continued employment of persons undergoing temporary medical or emotional problems in any capacities other than direct services.

E. If any required professional services are not furnished by facility employees, the facility shall have a written agreement with an appropriately qualified professional to perform the required service or written agreements with the state for required resources.

F. The facility shall establish procedures to assure adequate communication among staff in order to provide continuity of services to the participant. This system of communication shall include:

1. a regular review of individual and aggregate problems of participants, including actions taken to resolve these problems;

2. sharing daily information, noting unusual circumstances and other information requiring continued action by staff; and

3. the maintenance of all accidents, personal injuries and pertinent incidents records related to implementation of participant's individual service plans.

G. Any employee who is working directly with participant care shall have access to information from participant case records that is necessary for the effective performance of the employee's assigned tasks.

H. The facility shall establish procedures which facilitate participation and feedback by staff members in policy-making, planning and program development for participants.

I. At all times, there shall be a staff member in the facility who has knowledge of and can apply first aid and who is certified in CPR.

J. In the absence of the director, a staff member shall be designated to supervise the facility.

K. The facility shall not provide service to more participants than the number specified on its license on any given day or at any given time.

L. The facility shall make available to DHH any information, which the facility is required to have under these standards and is reasonably related to assessment of compliance with these standards. The participant's right shall not be considered abridged by this requirement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 40:2120.41-46.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health

Services Financing, LR 23:1149 (September 1997), amended by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 30:2034 (September 2004), repromulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:

§1167. Staffing Requirements

A. The following staff positions are required; however, one person may occupy more than one position except for those positions that require full time status. No staff person shall occupy more than three positions at a given time.

1. Director/Administrator. The director/administrator shall have a bachelor's degree in a human services field, such as social work, nursing, education or psychology. Two years of responsible supervisory experience may be substituted for each year of college.

2. Social Service Designee. The social services designee shall have a bachelor's degree in a human services field. Two years of experience in a human service field may be substituted for each year of college. The facility shall designate at least one full-time staff person to serve as the social services designee.

3. Nurse. The facility shall employ a full-time Licensed Practical Nurse (LPN) or Registered Nurse (RN) who shall be available to provide medical supervision and on the premises of the facility during all hours that participants are present.

a. Nurses shall have a current Louisiana state license.

4. Program Manager. The facility shall designate at least one full-time staff member who is responsible for carrying out the facility's individualized program for each participant. The program director should have program planning skills, good organization abilities, counseling and occupational therapy experience.

5. Food Service Supervisor. The facility shall designate one full-time staff member who shall be responsible for meal preparation and/or serving.

6. Volunteers. Volunteers and student interns are considered a supplement to the required staffing component. A facility which utilizes volunteers or student interns on a regular basis shall have a written plan for utilizing these resources. This plan must be given to all volunteers and interns and it shall indicate that all volunteers and interns shall be:

- a. directly supervised by a paid staff member;
- b. oriented and trained in the philosophy of the facility and the needs of participants as well as the methods of meeting those needs;
- c. subject to character and reference checks similar to those performed for employment applicants upon obtaining a signed release and the names of the references from the potential volunteer/intern student;
- d. aware of and briefed on any special needs or problems of participants; and
- e. provided program orientation and ongoing in-service training. The in-service training should be held at least quarterly.

7. Direct Service Worker. An unlicensed person who provides personal care or other services and support to persons with disabilities or to the elderly to enhance their well being, and who is involved in face-to-face direct contact with the participant.

a. The direct care staff to participant ratio shall be a minimum of one full-time staff member to every nine participants.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 40:2120.41-46.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 23:1149 (September 1997), amended by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 30:2034 (September 2004), repromulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:

Subchapter H. Direct Service Management

§1169. Admissions

A. A facility shall have a written description of its admission policies and criteria. The admission information for individual participants shall include:

1. the participant's name, date of birth, home address and telephone number;

2. the name, address and telephone number of participant's closest relative or friend;

3. a brief social history that includes the participant's marital status, general health status, education, former occupation, leisure-time interest and existence of supportive family members or friends;

4. the name, address and telephone number of participant's physician and/or medical facility as well as the date of participant's last physical exam;

5. a written statement, signed by a physician, summarizing the participant's general health status. This statement shall be:

a. received prior to participant's admission into the program; and

b. based on an examination performed within 30 days prior to admission and should note special dietary needs, prescribed medication, allergies, and any limitations on activity;

6. the degree to which the participant is ambulant;

7. visual or hearing limitations and/or other physical impairments;

8. apparent mental state or degree of confusion or alertness;

9. the ability to control bowel or bladder;

10. the ability to feed self;

11. the ability to dress self; and

12. the ability to self-administer medication.

B. The facility shall not refuse admission to any participant on the grounds of race, sex or ethnic origin.

C. The facility shall not knowingly admit any participant into care whose presence would be seriously damaging to the ongoing functioning of the facility or to participants already receiving services.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 40:2120.41-46.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 23:1149 (September 1997), amended by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 30:2034 (September 2004), repromulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:

§1171. Discharge

A. The facility shall have written policies and procedures governing voluntary discharges (the participant withdraws from the program on his/her own) and non-voluntary discharges (facility initiated discharges).

1. The policy may include the procedures for non-voluntary discharges due to the health and safety of the participant or that of other participants if they would be endangered by the further stay of a particular participant in the facility.

B. There shall be a written report detailing the circumstances leading to any discharge.

C. Prior to a planned discharge, the facility's ID Team shall formulate an aftercare plan specifying needed supports and the resources available to the participant.

D. When the participant is going to another home and community based program or institutional facility, discharge planning shall include the participant's needs, medication history, social data, and any other information that will assist in his/her care at the new location.

1. A facility member of the ID Team shall confer with the representatives of the new program regarding the individual needs and problems of the participant, if at all possible.

E. Upon discharge, the facility shall provide a summary of the participant's health record to the person or agency responsible for the future planning and care of the participant. The discharge summary shall include:

1. medical diagnoses;
2. medication regimen (current physicians orders);
3. treatment regimen (current physicians orders);
4. functional needs (inabilities);
5. any special equipment utilized (dentures, ambulatory aids, eye glasses, etc.);
6. social needs;
7. financial resources; and
8. any other information which will enable the receiving facility/caregivers to provide the continued necessary care without interruption.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 40:2120.41-46.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 23:1149 (September 1997), amended by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 30:2034 (September 2004), repromulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:

§1173. Interdisciplinary Team Responsibilities

A. It shall be the responsibility of the ID team to assess and develop a plan of care, or service plan, for each participant prior to or within 20 days of admission of a participant.

B. Prior to the individual staffing of a participant by the ID team, each team member shall complete an assessment to be used at the team meeting. These assessments shall, at a minimum, include a medical evaluation and a social evaluation.

C. The ID team shall meet, reassess, and reevaluate each participant at least annually, but will meet at the end of each quarter to review the current individualized service plan and ensure that it is adequate for each participant.

D. The ID team shall make referrals, as indicated, to other disciplines and for any other service which would enhance the functional capacity of a participant.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 40:2120.41-46.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 23:1149 (September 1997), amended by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 30:2034 (September 2004), repromulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:

§1175. Interdisciplinary Team-Composition

A. The interdisciplinary team (ID team) may be composed of either full-time staff members, contractual consultants or a combination of both.

B. The ID team shall be composed of:

1. a registered nurse licensed to practice in the state of Louisiana;
2. social workers;
3. at least one direct care staff person from the facility;
4. in addition, dietitians, physical therapists, occupational therapists, recreational therapists, physicians and others may sit on the team to staff an individual participant on an as needed basis;
5. the participant, and/or family members or personal representative if appropriate, shall be involved in the ID team staffing and any other meeting involving the care of the participant.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 40:2120.41-46.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 23:1149 (September 1997), amended by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 30:2034 (September 2004), repromulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:

§1177. Plan of Care or Individualized Service Plan

A. The participant's plan of care or individualized service plan shall:

1. be developed from the staffing performed by the ID team of each participant;
2. state the individual needs and identified problems of the participant for which intervention is indicated in assessments, progress notes and medical reports;
3. include the number of days and time of scheduled attendance required to meet the needs of the participant;
4. use the strengths of the participant to develop approaches and list these approaches with the frequency that each will be used to meet the needs of the participant;
5. identify the staff member who will be responsible for carrying out each item in the plan (the position, rather than the name of the employee, may be indicated in the plan);
6. ensure that all persons working with the participant are appropriately informed of the services required by the plan of care;
7. propose a reasonable time-limited goal with established priorities. The projected resolution date or review date for each problem shall be noted;

8. contain the necessary elements of the self-administration or other medication administration plan, if applicable;

9. include discharge as a goal;

10. be legible and written in terminology which all staff personnel can understand;

11. be signed and dated by all the team members; and

12. be included as a part of the participant's case record.

B. Unless it is clearly not feasible to do so, a facility shall ensure that the plan of care and any subsequent revisions are explained to the participant and, where appropriate, the legally responsible person/personal representative or family member in language understandable to these persons.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 40:2120.41-46.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 23:1149 (September 1997), amended by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 30:2034 (September 2004), repromulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:

§1179. Plan of Care Review

A. The plan of care shall be reviewed and updated at least quarterly and whenever there is a change in problems, goals or approaches as indicated.

B. This review shall be done by the person indicated on the plan as the individual primarily responsible for carrying out the plan.

C. This review shall be accomplished by reviewing the individual reports of all persons responsible for meeting the needs of the participant. These reports shall include any reports from physicians, social workers, social service designees, nurses, therapists, dietitians, and family members as well as incident reports.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 40:2120.41-46.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 23:1149 (September 1997), amended by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 30:2034 (September 2004), repromulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:

§1181. Incident Reports

A. There shall be policies and procedures which cover the writing of and disposition of incident reports.

1. The facility shall complete incident reports for each participant involved in the following occurrences:

a. accidents and injuries;

b. the involvement of any participant in any occurrence which has the potential for affecting the welfare of any other participant;

c. any elopement or attempted elopement, or when the whereabouts of a participant is unknown for any length of time; and

d. any suspected abuse whether or not it occurred at the facility.

B. Daily progress notes shall indicate that an incident report was written.

C. The completed individual incident report shall be filed in a central record system.

D. Incident reports shall include, at a minimum, the following information:

1. the name of the participant or participants;

2. the date and time of the incident;

3. a detailed description of the incident;

4. the names of witnesses to the incident and their statements; and

5. a description of the action taken by the facility with regard to the incident.

E. Incident reports must be reviewed by the director/administrative, his designee or a medical professional within 24 hours of the occurrence. A qualified professional shall recommend action, in a timely manner, as indicated by the consequences of the incident.

F. ID team members shall review all incident reports quarterly, and recommend action as indicated to:

1. insure that the reports have all required information;

2. identify staff training needs;

3. identify patterns which may indicate a need for changes in the facility policies/practices; and

4. assist in identifying those participants who may require changes in their plans of care or who may not be appropriately placed in the ADHC facility.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 40:2120.41-46.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 23:1149 (September 1997), amended by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 30:2034 (September 2004), repromulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:

Subchapter I. Emergency and Safety

§1183. Emergency and Safety Procedures

A. A facility shall have a written overall plan of emergency and safety procedures. The plan shall:

1. provide for the evacuation of participants to safe or sheltered areas;

2. include provisions for training staff and, as appropriate, participants in preventing, reporting and responding to fires and other emergencies;

3. provide means for an on-going safety program including continuous inspection of the facility for possible hazards, continuous monitoring of safety equipment, and investigation of all accidents or emergencies; and

4. include provisions for training personnel in their emergency duties and in the use of any fire-fighting or other emergency equipment in their immediate work areas.

B. The facility shall ensure the immediate accessibility of appropriate first aid supplies.

C. A facility shall have access to telephone service whenever participants are in attendance.

1. Emergency telephone numbers shall be posted for easy access; including fire department, police, medical services, poison control and ambulance.

D. A facility shall immediately notify DHH and other appropriate agencies of any fire, disaster or other emergency which may present a danger to participants or require their evacuation from the facility.

E. There shall be a policy and procedure that insures the notification of family members or responsible parties whenever an emergency occurs for an individual participant.

F. Upon the identification of the non responsiveness of a participant at the facility, the facility's staff shall implement the emergency medical procedures and notify the participant's family members and other medical personnel.

G. A facility shall conduct emergency drills at least once every three months.

H. A facility shall make every effort to ensure that staff and participants recognize the nature and importance of such drills.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 40:2120.41-46.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 23:1149 (September 1997), amended by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 30:2034 (September 2004), repromulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:

§1185. General Safety Practices

A. A facility shall not maintain any firearms or chemical weapons where participants may have access to them.

B. A facility shall ensure that all poisonous, toxic and flammable materials are safely stored in appropriate containers that are labeled as to the contents. Such materials shall be maintained only as necessary and shall be used in such a manner as to ensure the safety of participants, staff and visitors.

C. A facility shall ensure that an appropriately equipped first-aid kit is available in the facility's buildings and in all vehicles used to transport participants.

D. The facility shall not have less than two remote exits.

E. Doors in means of egress shall swing in the direction of exit travel.

F. Every bathroom door lock shall be designed to permit opening of the locked door from the outside in an emergency, and the opening device shall be readily accessible to the staff.

G. Unvented or open-flame heaters shall not be utilized in facility.

H. All exterior and interior doors used by participants must be at least 32 inches wide.

I. All hallways/corridors must be at least 36 inches wide.

J. At least one primary entrance shall be accessible to the handicapped.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 40:2120.41-46.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 23:1149 (September 1997), amended by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 30:2034 (September 2004), repromulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:

Subchapter J. Physical Environment

§1187. General Appearance and Conditions

A. The facility shall present an attractive outside and inside appearance and be designed and furnished with consideration for the special needs and interests of the population to be served as well as the activities and services to be provided.

1. Illumination levels in all areas shall be adequate and careful attention shall be given to avoiding glare.

2. The design shall facilitate the participant's movement throughout the facility and involvement in activities and services.

3. Heating, cooling and ventilation system(s) shall permit comfortable conditions.

4. Sufficient furniture shall be available to facilitate usage by the entire participant population in attendance.

5. Furniture and equipment that will be used by participants shall be selected for comfort and safety as well as be appropriate for use by persons with visual and mobility limitations, and other physical disabilities.

6. Floors and steps shall have a non-slippery surface and be dry when in use by the participants. Doorways and passageways shall be kept clear to allow free and unhindered passage.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 40:2120.41-46.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 23:1149 (September 1997), amended by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 30:2034 (September 2004), repromulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:

§1189. Space Requirements

A. The facility shall have sufficient space and equipment to accommodate the full range of program activities and services.

B. The facility shall provide at least 40 square feet of indoor space for each participant. The square footage excludes hallways, offices, restrooms, storage rooms, kitchens, etc.

C. The facility shall be flexible and adaptable for large and small groups, and individual activities and services.

D. There shall be sufficient office space to permit staff to work effectively and without interruption.

E. There shall be adequate storage space for program and operating supplies.

F. There shall be sufficient parking area available for the safe daily delivery and pick-up of participants.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 40:2120.41-46.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 23:1149 (September 1997), amended by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 30:2034 (September 2004), repromulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:

§1191. ADHC Furnishings

A. The facility must be furnished so as to meet the needs of the participants. All furnishings and equipment shall be kept clean and in good repair.

B. Lounge and Recreational Areas. Adequate furniture shall be available and shall be appropriate for use by the participants in terms of comfort and safety.

C. Dining Area. Furnishings must include tables and comfortable chairs sufficient in number to serve all participants. Meals may be served either cafeteria style or directly at the table depending upon the method of food preparation or physical condition of the participants.

D. Kitchen. If the facility has a kitchen area, it must meet all health and sanitation requirements and must be of

sufficient size to accommodate meal preparation for the proposed number of participants.

E. Toilet Facilities. There shall be sufficient toilet and hand-washing facilities to meet the needs of both males and females. The number of toilets and hand-washing facilities shall be not less than one for each twelve participants.

1. There shall be at least two toilet facilities when males and females are served.

2. Toilets and hand-washing facilities shall be equipped so as to be accessible for the handicapped.

F. Isolation/Treatment Room. There shall be a separate room or partitioned area for temporarily isolating a participant in case of illness. This room may be furnished with a bed or a recliner for the participant's use.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 40:2120.41-46.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 23:1149 (September 1997), amended by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 30:2034 (September 2004), repromulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:

§1193. Location of Facility

A. An adult day health care facility that is located within any facility or program that is also licensed by the department must have its own identifiable staff, space, and storage. These facilities must meet specific requirements if they are located within the same physical location as another program that is also licensed by the department.

1. The program or facility within which the ADHC facility is located must meet the requirements of its own license.

B. New facilities may not be located within 1,500 feet of another adult day health care facility unless both facilities are owned and managed by the same organization.

C. The location or site of an adult day health care facility shall be chosen so as to be conducive to the program and the participants served.

D. ADHC Facilities within Nursing Facilities. An adult day care facility can only be located within a nursing facility when the following conditions are met.

1. Space required for licensure of the nursing facility cannot be utilized as space for the licensure of adult day care facility.

2. If space to be used for the ADHC facility is nursing facility bedroom space, the number of beds associated with the space occupied by the ADHC program must be reduced from the licensed capacity of the nursing facility.

3. There must be separate staff for both programs.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 40:2120.41-46.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 23:1149 (September 1997), amended by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 30:2034 (September 2004), repromulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:

Family Impact Statement

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule will have no impact on family functioning, stability, and autonomy as described in R.S. 49:972.

Interested persons may submit written comments to Jerry Phillips, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to inquiries regarding this proposed Rule. A public hearing on this proposed Rule is scheduled for Tuesday, February 26, 2008 at 9:30 a.m. in Room 118, Bienville Building, 628 North Fourth Street, Baton Rouge, Louisiana. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for the receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Roxane A. Townsend, M.D.
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Minimum Licensing
Standards for Adult Day Health Care**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that the implementation of this proposed rule will have no programmatic fiscal impact to the state other than cost of promulgation for FY 07-08. It is anticipated that \$5,440 (\$2,720 SGF and \$2,720 FED) will be expended in FY 07-08 for the state's administrative expense for promulgation of this proposed rule and the final rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that the implementation of this proposed rule will not affect federal revenue collections other than the federal share of the promulgation costs for FY 07-08. It is anticipated that \$2,720 will be expended in FY 07-08 for the federal share of the expense for promulgation of this proposed rule and the final rule.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This rule proposes to amend the standards for payment for adult day health care to remove the provisions governing licensing from LAC 50:XXI and repromulgate the licensing standards in LAC 48:I. It is anticipated that implementation of this proposed rule will not have estimable cost or economic benefits for directly affected persons or non-governmental groups in FY 07-08, FY 08-09 and FY 09-10.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This rule has no known effect on competition and employment.

Jerry Phillips
Medicaid Director
0801#095

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health and Hospitals Office of the Secretary Bureau of Health Services Financing

Medicaid Eligibility—Termination of Presumptive Eligibility for Pregnant Women

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing proposes to repeal the following rules in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950, et seq.

The Omnibus Budget Reconciliation Act of 1986 originally enacted provisions authorizing the optional presumptive eligibility Medicaid coverage for pregnant women. This Act was subsequently amended by the Family Support Act of 1988 and the Omnibus Budget Reconciliation Act of 1990. In compliance with the directives of these Acts, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopted provisions establishing presumptive eligibility for pregnant women covered by the Medicaid Program (*Louisiana Register*, Volume 14, Number 12). Presumptive eligibility is a temporary determination of Medicaid eligibility for a pregnant woman, made by a qualified provider, based on preliminary income information. The January 1, 1989 Rule was subsequently amended to revise the provisions governing the length of the presumptive eligibility period (*Louisiana Register*, Volume 25, Number 9). The Department now proposes to repeal the provisions of the January 1, 1989 and September 20, 1999 Rules governing presumptive eligibility for pregnant women to terminate this optional coverage. Since the department now provides broader coverage for optional low-income pregnant women and the processing time for pregnant women applications has been reduced substantially, there is no longer a need for the limited-benefit presumptive eligibility coverage.

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule will have no effect on the family functioning, stability and autonomy as described in R.S. 49:972.

Proposed Rule

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing proposes to repeal the provisions of the January 1, 1989 and September 20, 1999 Rules governing presumptive eligibility for pregnant women to terminate this optional coverage. This limited-benefit coverage is no longer needed since broader Medicaid coverage is available to optional low-income pregnant women and processing times for pregnant women applications has been reduced substantially.

Interested persons may submit written comments to Jerry Phillips, Department of Health and Hospitals, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to inquiries regarding this proposed Rule. A public hearing on this proposed Rule is scheduled for Tuesday, February 26,

2008 at 9:30 a.m. in Room 118, Bienville Building, 628 North Fourth Street, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Roxane A. Townsend, M.D.
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Medicaid Eligibility—Termination of Presumptive Eligibility for Pregnant Women

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that the implementation of this proposed rule will result in estimated savings to the state of \$2,139 for FY 07-08, \$12,120 for FY 08-09, and \$12,484 for FY 09-10. It is anticipated that \$204 (\$102 SGF and \$102 FED) will be expended in FY 07-08 for the state's administrative expense for promulgation of this proposed rule and the final rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that the implementation of this proposed rule will reduce federal revenue collections by approximately \$5,598 for FY 07-08, \$30,557 for FY 08-09, and \$31,473 for FY 09-10. It is anticipated that \$102 will be expended in FY 07-08 for the federal administrative expenses for promulgation of this proposed rule and the final rule.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This rule proposes to repeal the provisions of the January 1, 1989 and September 20, 1999 rules governing presumptive eligibility for pregnant women to terminate this optional coverage (approximately 4,656 applications per year). It is anticipated that implementation of this proposed rule will decrease program expenditures in the Medicaid Program by approximately \$7,941 for FY 07-08, \$42,677 for FY 08-09 and \$43,957 for FY 09-10.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

It is anticipated that the implementation of this rule will have no effect on competition and employment.

Jerry Phillips
Medicaid Director
0801#092

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health and Hospitals Office of the Secretary Bureau of Health Services Financing

Mental Health Rehabilitation Program—Moratorium on Mental Health Rehabilitation Providers (LAC 50:XV.701)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing proposes to repeal LAC 50:XV.701 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This proposed Rule is promulgated

in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing promulgated a Rule to adopt a moratorium on the enrollment of mental health rehabilitation (MHR) providers to participate in the Medicaid Program (*Louisiana Register*, Volume 31, Number 3). The department by Emergency Rule repealed the provisions of the March 20, 2005 Rule governing the moratorium on the enrollment of MHR providers (*Louisiana Register*, Volume 33, Number 7). This proposed Rule is being promulgated to continue the provisions of the August 1, 2007 Emergency Rule.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part XV. Services for Special Populations

Subpart 1. Mental Health Rehabilitation

Chapter 7. Provider Participation Requirements

Subchapter A. Certification and Enrollment

§701. Provider Enrollment Moratorium

A. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 31:668 (March 2005), amended LR 32:2069 (November 2006), repealed LR 34:

Family Impact Statement

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule will have a positive effect on family functioning, stability or autonomy as described in R.S. 49:972 by increasing access to mental health services.

Interested persons may submit written comments to Jerry Phillips, Department of Health and Hospitals, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to inquiries regarding this proposed Rule. A public hearing on this proposed Rule is scheduled for Tuesday, February 26, 2008 at 9:30 a.m. in Room 118, Bienville Building, 628 North 4th Street, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Roxane A. Townsend, M.D.
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Mental Health Rehabilitation Program—Moratorium on Mental Health Rehabilitation Providers

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that the implementation of this proposed rule will result in an estimated increase in expenses to the state of \$1,880,042 for FY 07-08, \$3,497,970 for FY 08-09, and \$3,637,889 for FY 09-10. It is anticipated that \$204 (\$102 SGF and \$102 FED) will be expended in FY 07-08 for the

state's administrative expense for promulgation of this proposed rule and the final rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that the implementation of this proposed rule will increase federal revenue collections by approximately \$4,781,890 for FY 07-08, \$8,818,825 for FY 08-09, and \$9,171,578 for FY 09-10. It is anticipated that \$102 will be expended in FY 07-08 for the federal administrative expenses for promulgation of this proposed rule and the final rule.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This rule, which continues the provisions of the August 1, 2007 Emergency Rule, proposes to repeal the provisions governing the moratorium on the enrollment of Mental Health Rehabilitation providers (approximately 28 new providers). It is anticipated that implementation of this proposed rule will increase program expenditures in the Mental Health Rehabilitation program by approximately \$6,661,728 for FY 07-08, \$12,316,795 for FY 08-09 and \$12,809,467 for FY 09-10.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

It is anticipated that the implementation of this rule will have a positive effect on competition and employment increasing the number of providers in the Mental Health Rehabilitation program.

Jerry Phillips
Medicaid Director
0801#093

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health and Hospitals Office of the Secretary Bureau of Health Services Financing

Third Party Liability—Provider Billing and Trauma Recovery (LAC 50:I.8345)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing proposes to amend LAC 50:I.8345 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950, et seq.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopted provisions governing provider billing and recovery from liable third parties in traumatic injuries or accident cases (*Louisiana Register*, Volume 33, Number 3). Under these provisions, the department shall not prevent a provider from pursuing a liable third party for payment in excess of the Medicaid paid amount to a provider.

In the department's efforts to secure approval from the Centers for Medicare and Medicaid Services (CMS) of the State Plan Amendment relative to the March 20, 2007 final Rule, CMS recommended that the provisions governing provider billing and trauma recovery be amended to further clarify the provider responsibilities. In compliance with CMS' recommendations, the department proposes to amend the provisions governing the provider responsibilities for

billing and recovery from liable third parties in traumatic injuries or accident cases.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part I. Administration

Subpart 9. Recovery

Chapter 83. Third Party Liability

Subchapter D. Provider Billing and Trauma Recovery

§8345. Provider Responsibilities

A. A provider who pursues a liable or potentially liable third party for the difference must:

1. establish his right to payment separate of any amounts claimed and established by the recipient, such as in compliance with Louisiana Revised Statute 9:4751 et seq.; or

a. - c. Repealed.

2. obtain a settlement or award in his own name separate from a settlement or award obtained by, or on behalf of, the recipient; or

3. enter into a written agreement with the recipient, the recipient's legal representative, or recipient's attorney in fact that specifies the amount which will be paid to the provider separate from the settlement or award obtained by the recipient.

B. A provider, who has filed and accepted Medicaid payment and who wishes to pursue the difference, shall submit written notification containing information relating to the existence or possible existence of a liable third party to the Medicaid Third Party Recovery Unit within 365 days of the accident or incident for which the third party is or may be liable.

1. The notice shall contain the:

a. Medicaid recipient's name;

b. Medicaid recipient's date of birth;

c. Medicaid recipient's Social Security number or Medicaid identification number, or both; and

d. date of the accident or incident.

C. A provider who has filed and accepted a Medicaid payment may accept or collect the difference from a third party. Within 15 working days of receipt of the difference, the provider or his agent shall notify the Medicaid Third Party Recovery Unit to determine whether it has received full reimbursement for all payments made to all providers for health care services rendered to a Medicaid recipient as a result of an accident or incident. A provider shall not disburse the difference until receipt of notification from the Medicaid Third Party Recovery Unit that it has been made "whole". Medicaid shall be made whole.

1. In the event Medicaid agrees to and accepts less than full reimbursement for all payments made on behalf of a Medicaid recipient, excluding any partial payment, Medicaid shall be deemed to have been made whole. Medicaid shall have 15 working days from receipt of notice to notify the provider whether it has been made whole.

2. When Medicaid has not been made whole, the provider shall return the difference to the remitter within 15 working days of the date of Medicaid's notice and shall also provide confirmation of the remittance to Medicaid.

D. In the event a provider has knowledge that an individual is a Medicaid recipient and is receiving or has received health care services which may be covered by

Medicaid as a result of the accident or incident, the provider is prohibited from:

1. demanding any payment from the Medicaid recipient or his representative; or

2. pursuing collection of any type against the Medicaid recipient or his representative.

E. Nothing in this Subchapter shall prevent a provider from demanding payment from, or pursuing any type of collection efforts for the difference against any liable or potentially liable third party, directly or through the Medicaid recipient or his representative who is demanding payment from any liable or potentially liable third party.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 33:463 (March 2007), amended LR 34:

Family Impact Statement

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule will have no impact on family functioning, stability, or autonomy as described in R.S. 49:972.

Interested persons may submit written comments to Jerry Phillips, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to inquiries regarding this proposed Rule. A public hearing on this proposed Rule is scheduled for Tuesday, February 26, 2008 at 9:30 a.m. in Room 118, Bienville Building, 628 North 4th Street, Baton Rouge, LA. At that time all interested individuals will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for the receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Roxane A. Townsend, M.D.
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Third Party Liability—Provider Billing and Trauma Recovery

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that the implementation of this proposed rule will have no programmatic fiscal impact to the state other than cost of promulgation for FY 07-08. It is anticipated that \$408 (\$204 SGF and \$204 FED) will be expended in FY 07-08 for the state's administrative expense for promulgation of this proposed rule and the final rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL It is anticipated that the implementation of this proposed rule will not affect federal revenue collections other than the federal share of the promulgation costs for FY 07-08. It is anticipated that \$204 will be collected in FY 07-08 for the federal share of the expense for promulgation of this proposed rule and the final rule.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This rule proposes to amend the provisions governing the provider responsibilities for billing and recovery from liable

third parties in traumatic injuries or accident cases (approximately 8,000 cases). It is anticipated that implementation of this proposed rule will not have estimable cost or economic benefits for directly affected persons or governmental groups in FY 07-08, FY 08-09 and FY 09-10.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This rule has no known impact on competition and employment.

Jerry Phillips
Medicaid Director
0801#096

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Health and Hospitals
Office of the Secretary
Office for Citizens with Developmental Disabilities**

Home and Community-Based Services Waivers
Direct Support Professionals Wage Enhancement
Support Coordination Services
(LAC 50:XXI.5715, 5901, and 6101)

The Department of Health and Hospitals, Office for Citizens with Developmental Disabilities proposes to amend LAC 50:XXI.Chapter 57 through 61 under the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950, et seq.

The Department of Health and Hospitals, Office for Citizens with Developmental Disabilities implemented a home and community-based services waiver, the supports waiver, to promote the independence of individuals with developmental disabilities by creating vocational and community inclusion options to enhance their lives (*Louisiana Register*, Volume 32, Number 9). The department promulgated an Emergency Rule to amend the provisions of the September 20, 2006 Rule governing the reimbursement methodology for the supports waiver to implement a wage enhancement payment to providers for direct support professionals (*Louisiana Register*, Volume 33, Number 5) and amended the May 20, 2007 Emergency Rule to further clarify the provisions governing the wage enhancement payment (*Louisiana Register* 33, Number 9). Waiver recipients currently receive support coordination for the supports waiver through targeted case management services provided under the Medicaid State Plan and paid from all state general funds, pending approval of the associated Medicaid State Plan Amendment. The department by Emergency Rule amended the September 20, 2006 Rule governing the services covered in the supports waiver to include support coordination as a covered service (*Louisiana Register*, Volume 33, Number 6). This proposed Rule is

being promulgated to continue the provisions of the June 20, 2007 and September 20, 2007 Emergency Rules.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part XXI. Home and Community Based Services

Waivers

Subpart 5. Supports Waiver

Chapter 57. Covered Services

§5715. Support Coordination

A. Support coordination is a service that will assist recipients in gaining access to all of their necessary services, as well as medical, social, educational and other services, regardless of the funding source for the services. Support coordinators shall be responsible for on-going monitoring of the provision of services included in the recipient's approved CPOC.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Office for Citizens with Developmental Disabilities, LR 34:

Chapter 59. Provider Participation

§5901. General Provisions

A. - C.5. ...

6. Support Coordination. Providers must be licensed as support coordination agencies and enrolled in the Medicaid Program to deliver these services.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Office for Citizens with Developmental Disabilities, LR 32:1607 (September 2006), amended LR 34:

Chapter 61. Reimbursement

§6101. Reimbursement Methodology

A. - H. ...

I. Direct Support Professionals Wage Enhancement

1. Effective May 20, 2007, an hourly wage enhancement payment in the amount of \$2 will be reimbursed to providers for full-time equivalent (FTE) direct support professionals who provide the following services to support waiver recipients:

- a. Habilitation;
- b. Supported Employment;
- c. Day Habilitation;
- d. Center-Based Respite; and
- d. Prevocational Services.

2. At least 75 percent of the wage enhancement shall be paid in the aggregate to direct support workers as wages. If less than 100 percent of the enhancement is paid in wages, the remainder, up to 25 percent, shall be used to pay employer-related taxes, insurance and employee benefits.

3. Effective September 20, 2007, the minimum hourly rate paid to direct support professionals shall be the federal minimum wage in effect on February 20, 2007 plus 75 percent of the wage enhancement or the current federal minimum wage, whichever is higher.

4. Providers shall be required to submit a certified wage register to the department verifying the direct support professionals' gross wages for the quarter ending March 31, 2007. The wage register will be used to establish a payroll baseline for each provider. It shall include the following information:

- a. gross wage paid to the direct support professional(s);
- b. total number of direct support hours worked; and
- c. the amount paid in employee benefits.

5. A separate report shall be submitted for paid overtime.

6. The provider shall submit quarterly wage reports that verify that the 75 percent wage enhancement has been paid to the appropriate staff.

7. The provider shall submit a report, according to the department's specifications, that will be used to measure the effectiveness of the wage enhancement.

8. The wage enhancement payments reimbursed to providers shall be subject to audit by the department.

9. Noncompliance or failure to demonstrate that the wage enhancement was paid directly to direct support professionals may result in:

- a. forfeiture of eligibility for wage enhancement payments;
- b. recoupment of previous wage enhancement payments;
- c. Medicaid fraud charges; and
- d. disenrollment from the Medicaid Program.

J. Support Coordination. Support coordination shall be reimbursed at a fixed monthly rate in accordance with the terms of the established contract.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Office for Citizens with Developmental Disabilities, LR 32:1607 (September 2006), amended LR 34:

Family Impact Statement

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule will have a positive impact on family functioning, stability and autonomy as described in R.S. 49:972 by assuring that families will have continued access to the services provided by direct support workers.

Interested persons may submit written comments to Kathy Kliebert, Office for Citizens with Developmental Disabilities, P.O. Box 3117, Baton Rouge, LA 70821-3117. She is responsible for responding to inquiries regarding this proposed Rule. A public hearing on this proposed Rule is scheduled for Tuesday, February 26, 2008 at 9:30 a.m. in Room 118, Bienville Building, 628 North Fourth Street, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Roxane A. Townsend, M.D.
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Home and Community-Based Services Waivers Supports Waiver—Direct Support Professionals Wage Enhancement—Support Coordination Services

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that the implementation of this proposed rule will result in an estimated increase in expenses to the state of \$406,886 for FY 07-08, \$421,589 for FY 08-09, and \$434,237 for FY 09-10. It is anticipated that \$340 (\$170 SGF and \$170 FED) will be expended in FY 07-08 for the state's administrative expense for promulgation of this proposed rule and the final rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that the implementation of this proposed rule will increase federal revenue collections by approximately \$1,034,687 FY 07-08, \$1,062,881 for FY 08-09, and \$1,094,767 for FY 09-10. It is anticipated that \$170 will be expended in FY 07-08 for the federal administrative expenses for promulgation of this proposed rule and the final rule.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This rule, which continues the provisions of the June 20, 2007 and September 20, 2007 Emergency Rules, proposes to amend the provisions governing the reimbursement methodology for the Supports Waiver program to implement an hourly wage enhancement payment to providers for direct care staff (approximately 38,362 monthly units of service), and to establish support coordination services as a covered service. It is anticipated that implementation of this proposed rule will increase program expenditures in the Supports Waiver program by approximately \$1,441,233 for FY 07-08, \$1,484,470 for FY 08-09 and \$1,529,004 for FY 09-10.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

It is anticipated that the implementation of this rule will have a positive effect on competition and employment by assisting providers to recruit and retain sufficient direct care staff.

Jerry Phillips
Medicaid Director
0801#091

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health and Hospitals Office of the Secretary Office for Citizens with Developmental Disabilities

Targeted Case Management—Individuals with
Developmental Disabilities
(LAC 50:XV.10501, 10505 and 11701)

The Department of Health and Hospitals, Office of the Secretary, Office for Citizens with Developmental Disabilities proposes to amend LAC 50:XV.10501, 10505 and 11701 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This proposed Rule is promulgated in accordance with the Administrative Procedure Act, R. S. 49:950, et seq.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopted provisions governing case management services provided to targeted population groups and certain home and community-based services waiver recipients (*Louisiana Register*, Volume 25, Number 7). In May 2004, the bureau repromulgated the July 1999 Rule in a codified format in Title 50 of the Louisiana Administrative Code (*Louisiana Register*, Volume 30, Number 5). The Department of Health and Hospitals, Office of the Secretary, Office for Citizens with Developmental Disabilities implemented a new home and community-based services waiver for persons with developmental disabilities, called the supports waiver. The department amended the provisions governing targeted case management to include recipients receiving services in the supports waiver and to change the name of the Mentally Retarded/Developmentally Disabled Waiver (*Louisiana Register*, Volume 32, Number 9). Case management services for supports waiver recipients are currently being paid from all state general funds pending approval of the associated Medicaid State Plan Amendment. The department by Emergency Rule amended the provisions of the September 20, 2006 Rule governing targeted case management to remove the coverage of case management services for supports waiver recipients (*Louisiana Register*, Volume 33, Number 6). Case management services shall be provided as support coordination services and included as a covered service in the Supports Waiver Program. This proposed Rule is being promulgated to continue the provisions of the June 20, 2007 Emergency Rule.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part XV. Services for Special Populations

Subpart 7. Targeted Case Management

Chapter 105. Provider Participation

§10501. Participation Requirements

A. - D.7. ...

8. assure the recipient's right to elect to receive or terminate case management services (except for recipients in the New Opportunities Waiver, Elderly and Disabled Adult Waiver and Children's Choice Waiver Programs). Assure that each recipient has freedom of choice in the selection of an available case management agency (every six months), a qualified case manager or other service providers and the right to change providers or case managers;

9. - 12. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Community Supports and Services, LR 30:1037 (May 2004), amended by the Department of Health and Hospitals, Office of the Secretary, Office for Citizens with Developmental Disabilities, LR 32:1608 (September 2006), amended LR 34:

§10505. Staff Education and Experience

A. - E.1.d. ...

- e. Targeted EPSDT; and
- f. Children's Choice Waiver;
- g. Repealed.

2. - 2.e....

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Community Supports and Services, LR 29:38 (January 2003), LR 30:1038 (May 2004), amended by the Department of Health and Hospitals, Office of the Secretary, Office for Citizens with Developmental Disabilities, LR 32:1608 (September 2006), amended LR 34:

Chapter 117. Individuals with Developmental Disabilities

§11701. Introduction

A. The targeted population for case management services shall consist of individuals with developmental disabilities who are participants in the New Opportunities Waiver.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:1043 (May 2004), amended by the Department of Health and Hospitals, Office of the Secretary, Office for Citizens with Developmental Disabilities, LR 32:1608 (September 2006), amended LR 34:

Family Impact Statement

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule will have no impact on family functioning, stability or autonomy as described in R.S. 49:972.

Interested persons may submit written comments to Kathy Kliebert, Office for Citizens with Developmental Disabilities, P.O. Box 3117, Baton Rouge, LA 70821-3117. She is responsible for responding to inquiries regarding this proposed Rule. A public hearing on this proposed Rule is scheduled for Tuesday, February 26, 2008 at 9:30 a.m. in Room 118, Bienville Building, 628 North 4th Street, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Roxane A. Townsend, M.D.
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Targeted Case Management—Individuals with Developmental Disabilities

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that implementation of this proposed rule will have no programmatic fiscal impact to the state other than the cost of promulgation for FY 07-08. It is anticipated that \$340 (\$170 SGF and \$170 FED) will be expended in FY 07-08 for the state's administrative expense for promulgation of this proposed rule and the final rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that the implementation of this proposed rule will not affect federal revenue collections other than the federal share of the promulgation costs for FY 07-08. It is anticipated that \$170 will be collected in FY 07-08 for the

federal share of the expense for promulgation of this proposed rule and the final rule.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This proposed rule, which continues the provisions of the June 20, 2007 Emergency Rule, removes the coverage of case management services for Supports Waiver recipients. Case management services shall be provided as support coordination services and included as a covered service in the Supports Waiver program. It is anticipated that implementation of this proposed rule will not have estimable cost or economic benefits for directly affected persons or non-governmental groups in FY 07-08, FY 08-09, and FY 09-10.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This rule has no known effect on competition and employment.

Jerry Phillips
Medicaid Director
0801#094

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Insurance
Office of the Commissioner**

**Regulation 95—Public Fire Protection Grading
Review Board (LAC 37:XIII.Chapter 129)**

Notice is hereby given in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and through the authority granted under R.S. 22:1 et seq., 22:1405(J), and 22:1405.1 through 1405.3, that the Commissioner of Insurance intends to promulgate Regulation 95 to implement the provisions of Acts 2006, No. 809 of the Regular Session of the Louisiana Legislature, which mandates that the Department of Insurance establish a board of review within the department to review public fire protection grading issued by the Property Insurance Association of Louisiana when a request for such review is properly submitted.

**Title 37
INSURANCE**

PART XIII. Regulations

**Chapter 129. Regulation Number 95—Public Fire
Protection Grading Board of Review**

§12901. Purpose

A. The purpose of Regulation 95 is to implement the provisions of Acts 2006, No. 809, Regular Session of the Louisiana Legislature which mandates that a board of review be established within the department of Insurance to review a public fire protection grading issued by the Property Insurance Association of Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:1405(J), 1405.1, 1405.2, 1405.3, and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 34:

§12903. Scope

A. Regulation 95 sets forth the procedures for review of a public fire protection grading issued by the Property Insurance Association of Louisiana, R.S. 22:1405.1 through 22:1405.3.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:1405(J), 1405.1, 1405.2, 1405.3, and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 34:

§12905. Authority

A. Regulation 95 is issued pursuant to the authority vested in the Commissioner of Insurance pursuant to the provisions of R.S. 49:953 et seq., of the Administrative Procedure Act; R.S. 22:3, and specifically 22:1405(J) and 1405.1 through 1405.3.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:1405(J), 1405.1, 1405.2, 1405.3, and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 34:

§12907. Definitions

A. For the purposes of Regulation 95, these terms shall have the meaning ascribed herein unless the context clearly indicates otherwise.

Board—board of review established by the Louisiana Department of Insurance to review a public fire protection grading issued by the Property Insurance Association of Louisiana pursuant to R.S. 22:1405.1.A.

Commissioner—Commissioner of Insurance.

Fire Chief—the highest ranking (appointed, elected, or designated) fire fighter in a fire protection district or other recognized fire protection agency. For the purposes of this regulation and other than §12907, Definitions, the term *fire chief* shall be inclusive of the term *fire chief's designee*.

Fire Chief's Designee—that individual who is designated, in writing by the fire chief to the commissioner, as an individual authorized to request a review of a public fire protection grading issued by the PIAL.

Fire Protection District—a municipal fire department or a state recognized fire service organization graded by the PIAL.

PIAL—Property Insurance Association of Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:1405(J), 1405.1, 1405.2, 1405.3, and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 34:

§12909. Eligibility to Request Review

A. A fire chief shall have authority to request a review of a public fire protection grading issued by the PIAL if the following requirements of R.S. 22:1405.2 have been satisfied:

1. the fire chief has attended the Professional Grading Assistance Program class, or has attended a class on fire suppression grading schedule sponsored by the Louisiana Fire Chief's Association or the Louisiana State Fireman's Association, or has attended a training seminar related to fire suppression grading that has been approved by either the Property Insurance Association of Louisiana or the Louisiana State University Fire and Emergency Training Institute; and

2. the fire chief sent a dispute letter to PIAL within 60 days of receipt of PIAL's public fire protection grading that specifically identified the fire chief's reasons for disagreement with PIAL's grading.

B. Upon receipt of the fire chief's dispute letter of a public fire protection grading, PIAL has 60 days to respond

in writing to the fire chief. The PIAL response to the dispute letter shall specifically address each reason for a fire chief's disagreement with the public fire protection grading.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:1405(J), 1405.1, 1405.2, 1405.3, and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 34:

§12911. Request for Hearing

A. The fire chief shall make a written request for board review of the public fire protection grading to the commissioner within 60 days of PIAL's written response to the fire chief's dispute letter.

B. If PIAL fails to provide a written response to the fire chief's dispute letter of a public fire protection grading within 60 days of receipt of the dispute letter, the fire chief shall make a written request to the commissioner within 10 days of the expiration of the 60 day deadline for PIAL's response to the fire chief's dispute letter, for board review of the public fire protection grading.

C. The fire chief's written request for board review shall include, but not be limited to:

1. documentation that the fire chief or his designee has attended one of the classes listed in §12909.A.1;

2. a copy of the fire chief's dispute letter sent to PIAL with certified/registered mail post marks as referenced in §12923;

3. documentation used to support the fire chief's dispute of the public fire protection grading;

4. a copy of the initial questionnaire and other paperwork relevant to the dispute sent to PIAL by the fire chief;

5. a copy of the public fire protection grading report issued by PIAL for the fire protection district that is the subject of the request for the review with certified/registered mail post marks as referenced in §12923;

6. a copy of PIAL's written response to the fire chief's dispute letter, with certified/registered mail postmarks as referenced in §12923. If PIAL failed to respond to the fire chief's dispute letter, the fire chief shall include a statement to that effect; and

7. a copy of the fire chief's written request for review sent to the commissioner, with certified/registered mail postmarks as referenced in §12923.

D. The board shall have the authority to suspend a detrimental change in a public fire protection grading from the date a proper request for review is received until appropriate board action is completed and a written decision has been issued by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:1405(J), 1405.1, 1405.2, 1405.3, and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 34:

§12913. Hearing

A. The board shall convene a hearing within 90 days after a request for review of a public fire protection grading has been properly submitted.

B. The board shall hold the hearing in the public fire protection district for which a request for review has been filed.

C. The fire chief shall provide a convenient forum to conduct the hearing in the public fire protection district that is the subject of the review.

D. All testimony presented to the board during a hearing shall be conducted under oath.

E. A transcript shall be taken of all testimony provided in a hearing or rehearing.

F. The board shall have 90 days following the hearing to render its decision.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:1405(J), 1405.1, 1405.2, 1405.3, and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 34:

§12915. Standard of Review

A. The board shall determine whether the public fire protection grading issued by the PIAL was properly performed according to PIAL guidelines.

B. The board's evaluation of the public fire protection grading issued by PIAL shall be based upon the information provided to PIAL by the fire chief at the time the disputed public fire protection grading was performed.

C. The board's evaluation of the public fire protection grading issued by PIAL shall be based upon the PIAL procedures and guidelines in use at the time the disputed public fire protection grading was performed.

D. Within 10 days following a written request by the board, PIAL shall provide to the board all records relating to the grading of the public fire protection district that is the subject matter of the pending review including but not limited to:

1. a copy of all information provided to PIAL by the fire chief at the time the disputed grading of the subject fire protection district was performed;

2. a complete copy of PIAL's public fire protection grading procedures and guidelines used to grade the subject fire protection district at the time the disputed grading was performed;

3. a copy of PIAL's public fire protection grading notice of results sent to the fire chief, with certified/registered mail postmarks as referenced in §12923;

4. a copy of the fire chief's dispute letter sent to PIAL, with certified/registered mail postmarks as referenced in §12923;

5. a copy of PIAL's written response to the fire chief's dispute letter, with certified/registered mail postmarks as referenced in §12923.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:1405(J), 1405.1, 1405.2, 1405.3, and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 34:

§12917. Rehearing

A. The fire chief and PIAL shall both have the right to request that the board reconsider its decision made pursuant to section §12911 through §12915.

B. The request for rehearing of a board decision made pursuant to section §12911 through §12915 shall be made in writing to the commissioner within 10 days after receipt of a written decision of the board. The request for rehearing shall state the grounds upon which a rehearing should be granted.

C. The commissioner shall transmit the rehearing request to the board within 10 days of receipt.

D. The board shall have 60 days from the receipt of a request for rehearing to make its decision to grant or deny the rehearing request.

E. The board shall give notice of its written decision to grant or deny a rehearing to both the fire chief and PIAL.

F. If the board grants the rehearing request, the board shall convene the rehearing within 90 days after granting the request for rehearing.

G. A rehearing shall be held at the Louisiana Department of Insurance.

H. The board may request additional information and documentation from either PIAL or the fire chief prior to a rehearing.

I. A transcript shall be taken of all testimony provided in a rehearing.

J. The board shall have 90 days following the rehearing to render its decision.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:1405(J), 1405.1, 1405.2, 1405.3, and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 34:

§12919. Decisions by the Board of Review; Effective Date

A. The board shall transmit its written decision to both PIAL and the fire chief within 90 days of the completion of a hearing or rehearing.

B. The decision of the board shall instruct PIAL to:

1. reevaluate the disputed public fire protection grading for the subject fire protection district in accordance with the board's decision and instructions; or

2. impose the disputed public fire protection grading for the fire protection district.

C. The board's decision shall include written reasons for its decision.

D. Three members of the board shall constitute a quorum.

E. The vote of each member participating shall be recorded.

F. The chairman shall only vote in the event of a tie.

G. The decision of the board shall become effective 10 business days following the date it was rendered.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:1405(J), 1405.1, 1405.2, 1405.3, and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 34:

§12921. Notice

A. The board shall provide public notice of a public fire protection grading review hearing or rehearing 10 business days prior to the hearing. This notice shall provide the time, date, and location of the public fire protection review hearing or rehearing.

B. Notice shall be published on the department's website and in a publication commonly circulated in the disputed fire protection district or other official journal for the municipal fire district or recognized fire protection agency.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:1405(J), 1405.1, 1405.2, 1405.3, and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 34:

§12923. Certified/Registered Mail

A. For the purposes of this regulation, select correspondence underlying a board review of a public fire protection grading shall be made in writing and sent by certified/registered mail.

B. The following correspondence requires certified/registered post marks:

1. PIAL's original written notice of results of a public fire protection grading or original written notice of results of a change to an existing public fire protection grading;

2. the fire chief's written dispute letter to PIAL regarding PIAL's public fire protection grading;

3. PIAL's written response to the fire chief's dispute letter;

4. the fire chief's written request for board review sent to the commissioner;

5. the board's written decision rendered after a hearing or rehearing;

6. a fire chief's or PIAL's written request for rehearing sent to the commissioner;

7. the board's written decision to either grant or deny a rehearing;

8. the board's written request to PIAL for all records relating to the grading of the public fire protection district that is the subject of the review.

C. In the event that documents submitted are not in compliance with the certified/registered mail requirements in §12923.B, the board shall, based on the facts and circumstances, determine whether each document was originally transmitted and received in compliance with §12909 and 12911.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:1405(J), 1405.1, 1405.2, 1405.3, and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 34:

§12925. Effective Date

A. This regulation shall become effective upon final publication in the *Louisiana Register* and shall apply to acts or practices committed on or after the effective date.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:1405(J), 1405.1, 1405.2, 1405.3, and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 34:

Family Impact Statement

Pursuant to R.S. 49:953.A(1)(a)(viii) the commissioner for the LDOI states that there will be no adverse impact on family formation, family stability, and family autonomy, as set forth in R.S. 49:972 from the promulgation of Regulation 95.

Persons interested in obtaining copies of Regulation 95 or in making comments relative to this proposal may do so at the public hearing to be held February 25, 2008, at 10 a.m., in the Poydras Hearing Room of the Louisiana Department of Insurance Building, 1702 North Third Street, Baton Rouge, LA or by writing to Walter Corey, Attorney, 1702 North Third Street, Baton Rouge, LA 70802. Written comments will be accepted through the close of business on February 25, 2008.

James J. Donelon
Commissioner

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**
**RULE TITLE: Regulation 95—Public Fire Protection
Grading Review Board**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO
STATE OR LOCAL GOVERNMENT UNITS (Summary)**

DOI does not anticipate any implementation costs as a result of Regulation 95, which creates the Public Fire Protection Grading Board of Review. To the extent the board of review created within regulation 95 has numerous meetings during the fiscal year, there could be minor travel costs associated with the created board of review.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE
OR LOCAL GOVERNMENTAL UNITS (Summary)**

There will be no increase or decrease in revenue collections of state or local governmental units as a result of Regulation 95.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO
DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL
GROUPS (Summary)**

To the extent that the Public Fire Protection Grading Board of Review modifies the public fire protection grading issued by the Property Insurance Association of Louisiana, there could be a positive or negative impact upon consumers purchasing property insurance in Louisiana.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT
(Summary)**

The implementation of Regulation 95 should not impact competition within the property insurance market in Louisiana.

James J. Donelon
Commissioner
0801#064

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Natural Resources
Office of the Secretary**

**Certification of Land Conservation Organizations
(LAC 43:I.Chapter 41)**

Under the authority of the laws of the State of Louisiana and in accordance with the provisions of Section 149 of Chapter 8 of Title 31 and Section 1702 of Chapter 14 of Title 41 of the Louisiana Revised Statutes of 1950, with the general authority of the Department of Natural Resources and the secretary thereof under Chapter 8 of Title 36 and Subpart B of Part 2 of Chapter 2 of Title 49 of the Louisiana Revised Statutes of 1950, including R.S. 36:351 et seq. and R.S. 49:214.4, and with the Administrative Procedure Act, R.S. 49:950 et seq., the secretary hereby gives notice that rulemaking procedures have been initiated to promulgate new Rules to govern the Certification of Land Conservation Organizations, LAC 43:I.4101, 4103, 4105, 4107, 4109, 4111, 4113, 4115, 4117, and 4119.

The proposed Rules govern the administration of the Certification of Land Conservation Organizations and set forth the standards and procedures for certification of state or national land conservation organizations by the secretary in accordance with and for purposes of R.S. 31:149 and R.S. 41:1702. The purpose of the Rules is to establish objective standards and procedures for determining that an applicant for certification actively and effectively works to conserve land by undertaking or assisting in land or easement

acquisitions or by engaging in the stewardship of land or easements; for recertification and revocation of certification; and for related matters. The basis and rationale for these proposed Rules are to assist the secretary in certifying Land Conservation Organizations under R.S. 31:149 and to implement the rulemaking authority given to the secretary under Acts 2006, No. 626, and to comply with the provisions of R.S. 41:1702 enacted thereunder.

These proposed Rule has no known impact on family formation, stability, and autonomy as described in R.S. 49:972.

Title 43

NATURAL RESOURCES

Part I. Office of the Secretary

Subpart 4. Land Conservation Organizations

**Chapter 41. Certification of Land Conservation
Organizations**

§4101. Purpose and Authority

A. This Chapter sets forth the standards and procedures for certification of state or national land conservation organizations by the secretary for purposes of R.S. 31:149 and R.S. 41:1702.

B. The purposes of this Chapter are to establish objective standards and procedures for determining that an applicant for certification actively and effectively works to conserve land by undertaking or assisting in land or easement acquisitions or by engaging in the stewardship of land or easements; for recertification and revocation of certification; and for related matters.

C. These regulations are adopted pursuant to R.S. 31:149 and R.S. 41:1702.

AUTHORITY NOTE: Promulgated in accordance with R.S. 31:149 and R.S. 41:1702.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of the Secretary, LR 34:

§4103. Definitions

A. The following definitions shall apply for purposes of this Chapter, unless specifically defined otherwise.

Applicant—a nonprofit entity, recognized by the United States Internal Revenue Service under 26 U.S.C. §§501(c)(3) and 170 as being organized and operated as a public charitable organization, that seeks certification by the department as a state or national land conservation organization for purposes of R.S. 31:149 and R.S. 41:1702.

Application—written request to the secretary for certification of an applicant.

Certification—certification of an applicant by the secretary as a state or national land conservation organization for purposes of R.S. 31:149 and R.S. 41:1702.

Certified Land Conservation Organization—an entity certified by the department as a state or national land conservation organization for purposes of R.S. 31:149 and R.S. 41:1702.

Contact—a natural person designated by the department, applicant, or certified land conservation organization to act as its sole point of contact with respect to the application, certification, and recertification.

Department—the Department of Natural Resources, its secretary, or his designee.

Insider—any member of the applicant's or certified land conservation organization's board or staff; any substantial contributor to the applicant or certified land conservation organization (as defined at 26 U.S.C. §507(d)(2)); any party

related to the above (spouse, sibling or spouse thereof; ancestor, child, or spouse thereof; grandchild or spouse thereof; or great-grandchild or spouse thereof); any 35 percent controlled entity with respect to the applicant or certified land conservation organization; any person in a position to exercise substantial influence over the affairs of the applicant or certified land conservation organization; and any person with access to information regarding the applicant or certified land conservation organization not available to the general public, such as a volunteer.

Reviewer—the person, section, division, or group within the department designated by the secretary to receive, review, and make recommendations to the secretary regarding applications for certification or recertification.

Secretary—the secretary of the Department of Natural Resources or his designee, unless otherwise specifically stated in this Chapter.

Section—section of this Chapter, unless otherwise specifically stated.

AUTHORITY NOTE: Promulgated in accordance with R.S. 31:149 and R.S. 41:1702.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of the Secretary, LR 34:

§4105. General Provisions Regarding Certification

A. No person has any entitlement to certification or to any status as a certified land conservation organization. The secretary has complete discretion whether to certify an applicant as a land conservation organization for purposes of this Chapter, to recertify a certified land conservation organization, or to revoke a certification, consistent with the standards and procedures stated in this Chapter.

B. Certification is nontransferable in whole or in any part. Any purported transfer of a certification is null and void.

C. Any applicant or certified land conservation organization shall immediately inform the secretary if it no longer meets any of the requirements under §4107.A.

D. All requirements for written submissions may be satisfied by physical delivery as evidenced by a United States mail return receipt or receipt signed by the recipient, or by fax or email actually received by the recipient.

AUTHORITY NOTE: Promulgated in accordance with R.S. 31:149 and R.S. 41:1702.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of the Secretary, LR 34:

§4107. Standards for Certification

A. Requirements. An applicant shall establish that it meets all of the following requirements for certification.

1. The applicant is a legal entity, other than a natural person, created or organized in the United States or any possession thereof or under the law of the United States, any state, the District of Columbia, or any possession of the United States.

a. The applicant shall provide copies of its articles of incorporation or organization (or other organizing documents) certified by the Louisiana Secretary of State or, if created or organized under the law of the United States, any state other than Louisiana, the District of Columbia, or any possession of the United States, by the official custodian of such records thereof.

2. The applicant is in good standing in the State of Louisiana.

a. The applicant shall provide a Good Standing Certificate from the Louisiana Secretary of State.

3. The applicant is recognized under 26 U.S.C. §501(c)(3) and 26 U.S.C. §170 as being organized and operated as a public charitable organization.

a. The applicant shall provide copies of all determinations by the United States Internal Revenue Service (IRS) regarding the status of the applicant under 26 U.S.C. §501(c)(3) and/or 26 U.S.C. §170.

b. The applicant shall provide copies of its latest federal and state tax returns.

4. The actions, inactions, and anticipated actions and inactions of the applicant are consistent with, and not contrary to, any Comprehensive Master Coastal Protection Plan or any Annual Plan adopted by the Coastal Protection and Restoration Authority and the Legislature under Louisiana Revised Statutes Title 49, Part II, Subpart A, or any plan or project included in any such Master Plan or Annual Plan.

a. The applicant shall submit a written statement to this effect, signed by an officer of the applicant authorized to make such statements on behalf of the applicant.

B. Organizational Considerations. In addition to determining that an applicant meets all requirements of §4107.A, the secretary shall consider an application according to the manner and extent to which the applicant meets each of the following considerations.

1. **Standard 1: Mission.** The applicant has a clear mission that serves a public interest, and its programs support that mission.

a. **Mission.** The applicant's mission (or a primary component of the applicant's mission) is conserving land by undertaking or assisting in land or easement acquisitions, or by engaging in the stewardship of land or easements.

b. **Planning and Evaluation.** The applicant regularly establishes strategic goals for implementing its mission and routinely evaluates programs, goals, and activities to be sure they are consistent with the mission.

c. **Ethics.** The applicant upholds high standards of ethics in implementing its mission and in its governance and operations.

2. **Standard 2: Compliance with Laws.** The applicant fulfills its legal requirements as a nonprofit tax-exempt organization and complies with all laws.

a. **Compliance with Laws.** The applicant complies with all applicable federal, state, and local laws.

b. **Nonprofit Incorporation and Bylaws.** The applicant has incorporated or organized according to the requirements of state law and maintains its corporate status. It operates under bylaws based on its corporate or company charter and its articles of incorporation or organization. The applicant periodically reviews the bylaws.

c. **Tax Exemption.** The applicant has qualified for federal tax-exempt status and complies with requirements for retaining this status, including prohibitions on private inurement and political campaign activity, and limitations and reporting on lobbying and unrelated business income. The applicant also meets the IRS public support test for public charities. Where applicable, state tax-exemption requirements are met.

d. Records Policy. The applicant has adopted a written records policy that governs how organization and transaction records are created, collected, retained, stored, and disposed.

3. Standard 3: Board Accountability. The applicant has a board that acts ethically in conducting the affairs of the organization and carries out the board's legal and financial responsibilities as required by law.

a. Board Composition. The board is of sufficient size to conduct its work effectively. The board is composed of members with diverse skills, backgrounds, and experiences who are committed to board service. There is a systematic process for recruiting, training, and evaluating board members.

b. Board Governance. The applicant provides board members with clear expectations for their service and informs them about the board's legal and fiduciary responsibilities. The board meets regularly enough to conduct its business and fulfill its duties. Board members are provided with adequate information to make good decisions. Board members attend a majority of meetings and stay informed about the applicant's mission, goals, programs, and achievements.

c. Board Approval of Land Transactions. The board reviews and approves every land and easement transaction, and the applicant provides the board with timely and adequate information prior to final approval. However, the board may delegate decision-making authority on transactions if it establishes policies defining the limits to that authority, the criteria for transactions, the procedures for managing conflicts of interest, and the timely notification of the full board of any completed transactions, and if the board periodically evaluates the effectiveness of these policies.

4. Standard 4: Conflicts of Interest. The applicant has policies and procedures to avoid or manage real or perceived conflicts of interest.

a. Dealing with Conflicts of Interest. The applicant has a written conflict of interest policy to ensure that any conflicts of interest or the appearance thereof are avoided or appropriately managed through disclosure, recusal, or other means. The conflict of interest policy applies to all insiders. Federal and state conflict disclosure laws are followed.

b. Transaction with Insiders. When engaging in land and easement transactions with insiders, the applicant: follows its conflict of interest policy; documents that the project meets the applicant's mission; follows all transaction policies and procedures; and ensures that there is no private inurement or impermissible private benefit. For purchases and sales of property to insiders, the applicant obtains a qualified independent appraisal prepared in compliance with the Uniform Standards of Professional Appraisal Practice by a state-licensed appraiser who has verifiable conservation easement or conservation real estate experience. When selling property to insiders, the applicant widely markets the property in a manner sufficient to ensure that the property is sold at or above fair market value and to avoid the reality or perception that the sale inappropriately benefited an insider.

5. Standard 5: Fundraising. The applicant conducts fundraising activities in an ethical and responsible manner.

a. Legal and Ethical Practices. The applicant complies with all charitable solicitation laws, does not engage in commission-based fundraising, and limits

fundraising costs to a reasonable percentage of overall expenses.

b. Accountability to Donors. The applicant is accountable to its donors and provides written acknowledgment of gifts as required by law, ensures that donor funds are used as specified, keeps accurate records, honors donor privacy concerns, and advises donors to seek independent legal and financial advice for substantial gifts.

6. Standard 6: Financial and Asset Management. The applicant manages its finances and assets in a responsible and accountable way.

a. Annual Budget. The applicant prepares an annual budget that is reviewed and approved by the board, or is consistent with board policy. The budget is based on programs planned for the year. Annual revenue is greater than or equal to expenses, unless reserves are deliberately drawn upon. The applicant should attach its latest budget.

b. Financial Records. The applicant keeps accurate financial records, in a form appropriate to its scale of operations and in accordance with Generally Accepted Accounting Principles (GAAP) or alternative reporting method acceptable to a qualified financial advisor.

c. Financial Review or Audit. The applicant has an annual financial review or audit, by a qualified financial advisor, in a manner appropriate for the scale of the organization and consistent with state law.

d. Investment and Management of Financial Assets and Dedicated Funds. The applicant has a system for the responsible and prudent investment and management of its financial assets, and has established policies on allowable uses of dedicated funds and investment of funds.

e. Funds for Stewardship and Enforcement. The applicant has a secure and lasting source of dedicated or operating funds sufficient to cover the costs of stewarding its land and easements over the long term and enforcing its easements, tracks stewardship and enforcement costs, and periodically evaluates the adequacy of its funds. In the event that full funding for these costs is not secure, the board has adopted a policy effectively committing the organization to raising the necessary funds.

7. Standard 7: Volunteers, Staff, and Consultants. The applicant has volunteers, staff, and/or consultants with appropriate skills and in sufficient numbers to carry out its programs.

a. Capacity. The applicant regularly evaluates its programs, activities, and long-term responsibilities and has sufficient volunteers, staff, and/or consultants to carry out its work, particularly when managing an active program of easements.

8. Standard 8: Evaluating and Selecting Conservation Projects. The applicant carefully evaluates and selects its conservation projects.

a. Project Selection and Criteria. The applicant has a defined process for selecting land and easement projects, including written selection criteria that are consistent with its mission. For each project, the applicant evaluates its capacity to perform any perpetual stewardship responsibilities.

b. Public Benefit of Transactions. The applicant evaluates and clearly documents the public benefit of every land and easement transaction and how the benefits are consistent with the mission of the organization. All projects

conform to applicable federal and state charitable trust laws. If the transaction involves public purchase or tax incentive programs, the applicant satisfies any federal, state, or local requirements for public benefit.

c. **Site Inspection.** The applicant inspects properties before buying or accepting donations of land or easements to be sure they meet the organization's criteria, to identify the important conservation values on the property, and to reveal any potential threats to those values.

d. **Project Planning.** All land and easement projects are individually planned so that the property's important conservation values are identified and protected, the project furthers the applicant's mission and goals, and the project reflects the capacity of the organization to meet future stewardship obligations.

e. **Evaluating Risks.** The applicant examines the project for risks to the protection of important conservation values (such as surrounding land uses, extraction leases or other encumbrances, water rights, environmental protection issues, potential credibility issues, or other threats) and evaluates whether it can reduce the risks. The applicant modifies the project or turns it down if the risks outweigh the benefits.

9. **Standard 9: Ensuring Sound Transactions.** The applicant works diligently to see that every land and easement transaction is legally, ethically, and technically sound.

a. **Legal Review and Technical Expertise.** The applicant obtains a legal review of every land and easement transaction, appropriate to its complexity, by an attorney experienced with real estate law. As dictated by the project, the applicant secures appropriate expertise in financial, real estate, tax, scientific, and land and water management matters.

b. **Easement Drafting.** Every easement is tailored for the property according to project planning and: identifies the important conservation values protected and public benefit served; allows only permitted uses and/or reserved rights that will not significantly impair the important conservation values; contains only restrictions that the applicant is capable of monitoring; and is enforceable.

c. **Recordkeeping.** Pursuant to its records policy, the applicant keeps originals of all irreplaceable documents essential to the defense of each transaction (such as legal agreements, critical correspondence and appraisals) in one location, and copies in a separate location. Original documents are protected from daily use and are secured from fire, floods, and other damages.

d. **Title Investigation and Subordination.** The applicant investigates title to each property for which it intends to acquire title or an easement to be sure that it is negotiating with the legal owner(s) and to uncover liens, mortgages, mineral or other leases, water rights, and/or other encumbrances that could result in extinguishment of the easement or significantly undermine the important conservation values on the property are discharged or properly subordinated to the easement.

e. **Purchasing Land.** If the applicant buys land, easements, or other real property, it obtains a qualified independent appraisal to justify the purchase price. However, the applicant may choose to obtain a letter of opinion from a qualified real estate professional in the limited circumstances

when a property has a low economic value or a full appraisal is not feasible before a public auction. In limited circumstances where acquiring above the appraised value is warranted, the applicant documents the justification for the purchase price and that there is no private inurement or impermissible private benefit. If negotiating for a purchase below the appraised value, the applicant ensures that its communications with the landowner are honest and forthright.

f. **Selling Land or Easements.** If the applicant sells land or easements, it first documents the important conservation values, plans the project according to the practice outlined in §4107.B.8.d, and drafts protection agreements as appropriate to the property. The applicant obtains a qualified independent appraisal that reflects the plans for the project and protection agreements and justifies the selling price. (The applicant may choose to obtain a letter of opinion from a qualified real estate professional in the limited circumstances when a property has a very low economic value.) The applicant markets the property and selects buyers in a manner that avoids any appearance of impropriety and preserves the public's confidence in the applicant, and in the case of selling to an insider, considers the issues set forth in §4107.B.4.b.

g. **Transfers and Exchanges of Land.** If the applicant transfers or exchanges conservation land or easements, the applicant considers whether the new holder is a certified land conservation organization and can fulfill the long-term stewardship and enforcement responsibilities, ensures that the transaction does not result in a net loss of important conservation values and, for donated properties, ensures that the transfer is in keeping with the donor's intent. If transferring to a party other than another certified land conservation organization, nonprofit organization, or public agency, the consideration is based on a qualified independent appraisal (or letter of opinion when the property has a low economic value) in order to prevent private inurement or impermissible private benefit.

10. **Reserved.**

11. **Standard 11: Conservation Easement Stewardship.** The applicant has a program of responsible stewardship for its easements.

a. **Funding Easement Stewardship.** The applicant determines the long-term stewardship and enforcement expenses of each easement transaction and secures the dedicated or operating funds to cover current and future expenses. If funds are not secured at or before the completion of the transaction, the applicant has a plan to secure these funds and has a policy committing the funds to this purpose.

b. **Baseline Documentation Report.** For every easement, the applicant has a baseline documentation report (that includes a baseline map) prepared prior to closing and signed by the landowner at closing. The report documents the important conservation values protected by the easement and the relevant conditions of the property as necessary to monitor and enforce the easement. In the event that seasonal conditions prevent the completion of a full baseline documentation report by closing, a schedule for finalizing the full report and an acknowledgment of interim data [that for donations and bargain sales meets Treasury Regulations §170A-14(g)(5)(I)] are signed by the landowner at closing.

c. Easement Monitoring. The applicant monitors its easement properties regularly, at least annually, in a manner appropriate to the size and restrictions of each property, and keeps documentation (such as reports, updated photographs and maps) of each monitoring activity.

d. Landowner Relationships. The applicant maintains regular contact with owners of easement properties. When possible, it provides landowners with information on property management and/or referrals to resource managers. The applicant strives to promptly build a positive working relationship with new owners of easement property and informs them about the easement's existence and restrictions and the applicant's stewardship policies and procedures. The applicant establishes and implements systems to track changes in land ownership.

e. Enforcement of Easements. The applicant has a written policy and/or procedure detailing how it will respond to a potential violation of an easement, including the role of all parties involved (such as board members, volunteers, staff, and partners) in any enforcement action. The applicant takes necessary and consistent steps to see that violations are resolved and has available, or has a strategy to secure, the financial and legal resources for enforcement and defense.

f. Amendments. The applicant recognizes that amendments are not routine, but can serve to strengthen an easement or improve its enforceability. The applicant has a written policy or procedure guiding amendment requests that: includes a prohibition against private inurement and impermissible private benefit; requires compliance with the applicant's conflict of interest policy; requires compliance with any funding requirements; addresses the role of the board; and contains a requirement that all amendments result in either a positive or not less than neutral conservation outcome and are consistent with the organization's mission.

12. Standard 12: Fee Land Stewardship. The applicant has a program of responsible stewardship for the land it holds in fee for conservation purposes.

a. Funding Land Stewardship. The applicant determines the immediate and long-term financial and management implications of each land transaction and secures the dedicated and/or operating funds needed to manage the property, including funds for liability insurance, maintenance, improvements, monitoring, enforcement, and other costs. If funds are not secured at or before the completion of the transaction, the applicant has a plan to secure these funds and has a policy committing the funds to this purpose.

b. Land Management. The applicant inventories the natural and cultural features of each property prior to developing a management plan that identifies its conservation goals for the property and how it plans to achieve them. Permitted activities are compatible with the conservation goals, stewardship principles, and public benefit mission of the organization. Permitted activities occur only when the activity poses no significant threat to the important conservation values, reduces threats or restores ecological processes, and/or advances learning and demonstration opportunities.

c. Monitoring Applicant Properties. The applicant marks its boundaries and regularly monitors its properties for potential management problems (such as trespass, misuse

or overuse, vandalism or safety hazards) and takes action to rectify such problems.

d. Land Stewardship Administration. The applicant performs administrative duties in a timely and responsible manner. This includes establishing policies and procedures, keeping essential records, filing forms, paying insurance, paying any taxes and/or securing appropriate tax exemptions, budgeting, and maintaining files.

e. Community Outreach. The applicant keeps neighbors and community leaders informed about its ownership and management of conservation properties.

C. General Considerations. In addition to determining that an applicant meets all requirements of §4107.A, and considering the manner and extent to which the applicant meets each of the organizational considerations of §4107.B, the secretary shall also consider an application in light of each of the following general considerations:

1. the length of time that the applicant has been incorporated or organized;

2. the nature, extent, and number of land conservation projects that the applicant has undertaken or completed;

3. submission by the applicant of a resolution adopting the most current edition of the Land Trust Alliance Standards and Practices as its operating guidelines;

4. the manner and extent to which the applicant adopts and pursues sound policies and practices regarding furthering and not interfering with or impeding coastal conservation, restoration, protection, or management, including hurricane protection and flood control, including with respect to any Comprehensive Master Coastal Protection Plan or any Annual Plan adopted by the Coastal Protection and Restoration Authority and the Legislature under Revised Statutes Title 49, Part II, Subpart A, or any plan or project included in any such Master Plan or Annual Plan;

5. execution by the applicant of an agreement permitting access to or use of property owned or to be acquired by the applicant, for construction, placement, drainage, flowage, or other purposes necessary or appropriate for any plan or project included in any Comprehensive Master Coastal Protection Plan or any Annual Plan adopted by the Coastal Protection and Restoration Authority and the Legislature under Revised Statutes Title 49, Part II, Subpart A;

6. the manner and extent to which the applicant adopts and pursues policies and practices regarding environmental impacts of oil and gas and other activities on land owned or to be acquired by the applicant, such as requiring such activities to use best available practices regarding environmental impacts, requiring site restoration, using habitat enhancement projects, and other considerations related to environmental protection, conservation, restoration, and enhancement;

7. status of the applicant, as determined by the IRS, as a public charity under 26 U.S.C. §509(a) or a private operating foundation with a purpose of land conservation efforts under 26 U.S.C. 4942(j)(3);

8. any other matter that the secretary deems relevant to the application.

D. Extraordinary Considerations Potentially Barring Certification. The secretary may deny certification,

regardless of whether the applicant otherwise meets the requirements or considerations of this Chapter, upon determining that:

1. the applicant or any of its officers, directors, or owners has been convicted of any felony under the laws of the United States or any state;

2. the applicant or any of its officers, directors, or owners has been convicted of any crime involving fraud, dishonesty, or misrepresentation under the laws of the United States or any state;

3. the applicant or any of its officers, directors, or owners has been convicted of any crime or found by any administrative agency (after expiration of the time period for any appeal or final determination of any appeal) to have violated any statutory or regulatory provision involving fish and/or wildlife, environmental protection, or minerals under the laws or regulations of the United States or any state;

4. the applicant is insolvent, or there is a significant risk of insolvency within the foreseeable future.

AUTHORITY NOTE: Promulgated in accordance with R.S. 31:149 and R.S. 41:1702.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of the Secretary, LR 34:

§4109. Procedure for Certification

A. An applicant seeking certification shall submit an application to the department in writing.

1. The application shall state the means by which the applicant satisfies each of the requirements of §4107.A. Documents required under §4107.A shall be attached to the application.

2. The application shall state the manner and extent to which the applicant satisfies or addresses each organization consideration of §4107.B, or the reasons that a particular consideration is inapplicable. Documentation thereof, as appropriate, shall be attached.

a. If the applicant is accredited by the Land Trust Alliance as a land trust, the applicant may satisfy the requirements of this §4109.A.2 by attaching its application for accreditation to the Land Trust Alliance, a statement of any variances presently existing or anticipated by the applicant from its affirmations in the application, and documentation from the Land Trust Alliance that the accreditation is currently valid.

3. The application shall state the manner and extent to which the applicant satisfies or addresses each general consideration of §4107.C, or the reasons that a particular consideration is inapplicable. Documentation thereof, as appropriate, shall be attached.

4. The applicant shall state whether any of the extraordinary considerations of §4107.D applies, and if so, shall fully explain the situation and the reasons that the applicant asserts that the application should not be disqualified for that reason.

a. The reviewer may conduct or obtain a background or other investigation of the applicant and any officer or director of the applicant, including any criminal, financial, regulatory, or other matters. By submitting its application, the applicant and its officers and directors submit to and waive any objection to any such investigation.

5. The applicant may state in or attach to the application any other information that the applicant asserts is relevant to the determination regarding certification. The

secretary may disregard any information not provided with the application or any supplement requested by the reviewer.

6. The applicant shall designate an applicant contact with respect to the application and certification, and shall provide contact information for that person in the application. All communications with the applicant regarding the application or certification shall be made to the designated applicant contact, unless and until another contact is designated to the department in writing.

B. The secretary shall designate one or more reviewers to receive, review, and make recommendations to the secretary regarding applications for certification.

1. The reviewer shall determine the completeness of the application within 60 days of receipt.

2. The reviewer shall consider all information provided in or with the application or any supplement. The reviewer may disregard any information not submitted timely pursuant to this Section.

3. The reviewer shall designate a department contact with respect to the application and certification, and shall provide contact information for that person to the applicant. All communications with the department regarding the application or certification shall be made to the designated department contact, unless and until another contact is designated to the applicant in writing.

C. If the reviewer deems the application incomplete or requires additional information, the reviewer shall so notify the applicant, specifying the deficiencies and/or information required by the reviewer to complete the application. The reviewer shall issue any such notice of deficiency in writing to the applicant contact by United States mail, return receipt requested or with delivery confirmation.

1. If the applicant is notified of a deficiency in the application or additional information is requested, the applicant shall remedy the deficiency or provide the requested information within 60 days after issuance of the notice of deficiency.

2. The reviewer may request one or more interviews of the applicant's board, officers, or staff members, by telephone, videoconference, or in person. If the reviewer requests any such interviews, the application shall be considered incomplete until the interviews are conducted.

3. All time periods for the secretary or reviewer to take any action under this Chapter shall be suspended from date of issuance of any notice of deficiency until such time as the secretary or reviewer determines that the deficiency has been adequately addressed and so notifies the applicant contact by United States mail, return receipt requested or with delivery confirmation. The secretary or reviewer shall have 30 days to take any such action after satisfaction of the deficiency, in addition to any of the original time period remaining.

D. If the reviewer deems the application complete, the reviewer shall so notify the applicant. The reviewer shall issue any such notice of completion in writing to the applicant contact by United States mail, return receipt requested or with delivery confirmation.

1. If the applicant is notified of completion of its application, the department shall publish public notice of the application and the applicant's intent to become certified under this Chapter, within 30 days after issuing the notice of completion.

a. Such notice shall identify and describe the applicant, state that the applicant has applied for certification as a land conservation organization pursuant to R.S. 31:149 and/or R.S. 41:1702, and state the applicant's purpose in seeking certification.

b. Such notice shall be published in the official journal for the state.

c. Such notice shall identify and provide the address for the department contact, and state that public comments may be provided to the department contact in writing within 30 days of publication of the public notice of the application.

2. The reviewer shall consider any public comments received in writing within 30 days after publication of the public notice of the application. The reviewer need not consider public comments that are not received timely.

E. The reviewer shall make a recommendation to the secretary in writing regarding whether to grant certification, deny certification, or grant certification with specified conditions, within 90 days after publication of public notice of the application.

1. The secretary shall render a determination regarding certification within 60 days after receiving the recommendation of the reviewer.

2. The secretary shall notify the applicant contact in writing of the secretary's determination regarding certification, by United States mail, return receipt requested or with delivery confirmation.

F. If the secretary determines to certify the applicant as a state or national land conservation organization, the applicant shall submit a request for approval of the certification, together with the secretary's determination, to the Senate Committee on Natural Resources and the House Committee on Natural Resources within 60 days of receipt of the secretary's determination.

1. The applicant shall bear all responsibility for submitting and obtaining approval of the certification by both legislative committees.

2. The applicant shall forward any approval or disapproval of the certification by official action of the committees to the department contact, immediately upon receipt.

G. Certification shall be effective upon the date and at the time that it has been approved by both the Senate Committee on Natural Resources and the House Committee on Natural Resources.

1. No certification shall be valid unless and until it is approved by both the Senate Committee on Natural Resources and the House Committee on Natural Resources.

AUTHORITY NOTE: Promulgated in accordance with R.S. 31:149 and R.S. 41:1702.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of the Secretary, LR 34:

§4111. Annual Reporting

A. Every certified land conservation organization shall submit a report to the department contact each year within 30 days after the anniversary of the effective date of the certification. Such report shall contain a statement of the following.

1. Any change of status of the organization with respect to any requirement under §4107.A in the prior year, or that no change has occurred. All documentation of any such change shall be attached.

2. Any change of status of the organization with respect to any consideration under §4107.B in the prior year, or that no change has occurred. All documentation of any such change shall be attached.

3. Any change of status of the organization with respect to any consideration under §4107.C in the prior year, or that no change has occurred. All documentation of any such change shall be attached.

4. Any change of status of the organization with respect to any consideration under §4107.D in the prior year, or that no change has occurred. All documentation of any such change shall be attached.

5. Any acquisition or divestiture of real property by the organization in the prior year, or that no change has occurred, including:

a. the acquisition or divestiture document;

b. a detailed discussion of any plans by or for the organization to use any real property acquired;

c. any plan document for the use of real property acquired; and

d. a detailed discussion of any income received or anticipated and any revenues expenditures made by the organization with respect to any real property acquired or divested.

6. Any acquisition of the certified land conservation organization, in whole or in part, or that no change has occurred, including:

a. The acquisition or divestiture document;

b. A detailed discussion of whether and how the acquisition will or may affect the certified land conservation organization.

B. The annual report shall also contain a statement of any assistance or concessions requested of the certified land conservation organization by any state, local, or federal governmental entity in relation to any Comprehensive Master Coastal Protection Plan or any Annual Plan adopted by the Coastal Protection and Restoration Authority and the Legislature under Revised Statutes Title 49, Part II, Subpart A, or any plan or project included in any such Master Plan or Annual Plan; and any response or responsive actions in relation thereto.

AUTHORITY NOTE: Promulgated in accordance with R.S. 31:149 and R.S. 41:1702.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of the Secretary, LR 34:

§4113. Revocation of Certification

A. The secretary may revoke a certification for any of the following reasons:

1. violation by the certified land conservation organization of or failure to continue to satisfy any requirement under §4107.A;

2. substantial change in any of the considerations under §§4107.B or 4107.C;

3. any reason for which certification could be denied under §4107.D;

4. failure to comply with any requirement under §4111;

5. the certified land conservation organization acts or fails to act in such a manner so as to interfere with or impede any Comprehensive Master Coastal Protection Plan or any Annual Plan adopted by the Coastal Protection and Restoration Authority and the Legislature under Revised

Statutes Title 49, Part II, Subpart A, or any plan or project included in any such master plan or annual plan;

6. the certified land conservation organization is acquired, in whole or in part, by any person that is not a certified land conservation organization.

B. Revocation proceedings may be requested by the secretary, the department, any member of the Senate Committee on Natural Resources or the House Committee on Natural Resources, or any person affected by the certification or revocation of the certification of the certified land conservation organization.

1. Upon revocation of any certification, the organization will no longer be considered a certified land conservation organization and will no longer be considered to meet the definition of an acquiring authority under R.S. 31:149, on and after the date of such revocation.

C. Instead of revoking a certification, the secretary may, but need not, deem a certified land conservation organization to be non-compliant or on probationary status, for any of the reasons stated in this Section for which certification may be revoked. Such non-compliant or probationary status may be publicized by the secretary in any manner he deems appropriate.

AUTHORITY NOTE: Promulgated in accordance with R.S. 31:149 and R.S. 41:1702.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of the Secretary, LR 34:

§4115. Recertification

A. Recertification is required every five years. A certification expires automatically upon the lapse of five years from its effective date, unless the certified land conservation organization is recertified as provided in this Section.

B. The secretary may require earlier recertification as a prerequisite to approving any transaction involving the land conservation organization under R.S. 31:149 or R.S. 41:1702.

C. Recertification shall be conducted according to the same standards and procedures set forth in this Chapter for certification.

D. Upon denial of recertification, the organization will no longer be considered a certified land conservation organization and will no longer be considered to meet the definition of an acquiring authority under R.S. 31:149, on and after the date on which the prior certification expires.

E. All certifications issued by the secretary prior to the effective date of these regulations shall remain in full force and effect until two years after the effective date of these regulations. Any such certification expires automatically on that date, unless the certified land conservation organization is recertified as provided in this Section.

AUTHORITY NOTE: Promulgated in accordance with R.S. 31:149 and R.S. 41:1702.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of the Secretary, LR 34:

§4117. Administrative Review

A. Any applicant or certified land conservation organization aggrieved by a substantive decision made pursuant to the provisions of this Chapter may seek administrative review through the department.

B. A request for administrative review under this Section shall be submitted to the department in writing at the following address.

Louisiana Department of Natural Resources
Office of the Secretary
P.O. Box 94396
Baton Rouge, LA 70804-9396.

C. A request for administrative review shall include the following:

1. identification of the decision to which the request pertains;

2. a statement of the relief requested, identifying the specific issue or point as to which the adjudication is sought;

3. a statement of the reasons such relief is requested, and the facts upon which the request for relief is based;

4. the name and address to which the department and the Division of Administrative Law will send all communications regarding the request. Neither the department nor the Division of Administrative Law has any obligation to deliver any communications regarding the request to any person or address other than as listed in the request or any amendment thereto;

5. the department shall promptly submit any request for administrative review to the Division of Administrative Law.

D. Any adjudication hereunder shall be governed by and conducted in accordance with the Administrative Procedure Act, R.S. 49:950, et seq., and the Division of Administrative Law Act, R.S. 49:991, et seq.

AUTHORITY NOTE: Promulgated in accordance with R.S. 31:149 and R.S. 41:1702.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of the Secretary, LR 34:

§4119. Judicial Review

A. An applicant or certified land conservation organization may seek judicial review of the final decision of the Division of Administrative Law under Section 4117 in accordance with the Administrative Procedure Act, R.S. 49:950, et seq. and the Division of Administrative Law Act, R.S. 49:991, et seq.

AUTHORITY NOTE: Promulgated in accordance with R.S. 31:149 and R.S. 41:1702.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of the Secretary, LR 34:

All interested persons are invited to submit written comments on the proposed Rule. Persons commenting should reference these proposed Rule by "Certification of Land Conservation Organizations." Such comments must be received no later than March 7, 2008 at 4:30 p.m., and should be sent to the following contact person and address: James J. Devitt, Deputy General Counsel, Legal Division, Louisiana Department of Natural Resources, Office of the Secretary, P.O. Box 94396, Baton Rouge, LA 70804-9396 or to FAX (225) 342-2707 or by email to James.Devitt@la.gov. These proposed Rule is available on the internet at <http://dnr.louisiana.gov>. These proposed Rules are available for inspection and copying between the hours of 8:30 a.m. and 4:30 p.m. at the following address: Louisiana Department of Natural Resources, Office of the Secretary, 617 North Third Street, 12th Floor, Baton Rouge, LA 70804.

Gerry M Duszynski
Assistant Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Certification of Land
Conservation Organizations**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO
STATE OR LOCAL GOVERNMENT UNITS (Summary)**

While the administrative burden to DNR may be initially heavy, the agency will absorb the additional workload with existing staff. Therefore, no increase in costs to state or local government entities are anticipated to result from this action.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE
OR LOCAL GOVERNMENTAL UNITS (Summary)**

Since no fees will be generated by this program, the action is estimated to have no effect on state or local governmental unit revenue collections.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO
DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL
GROUPS (Summary)**

State or national land conservation organizations that elect to seek certification by DNR may have increased workload and paperwork adjustments associated with the initial certification process and continued maintenance of the certification in compliance with the proposed regulations. However, the associated adjustments are expected to be negligible.

Land organizations certified pursuant to the proposed regulations are anticipated to experience an increase in receipt of donations as a result of advantages provided thereto by the provisions of R.S. 31:149 and/or R.S. 41:1702.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT
(Summary)**

No impact on competition or employment is anticipated in either the public or private section.

Robert D. Harper
Undersecretary
0801#049

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Revenue
Policy Services Division**

**Payment of Taxes by Credit or Debit Cards; Other
(LAC 61:III.1532)**

Under the authority of R.S. 47:1511, R.S. 47:1519 and, in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Revenue, Policy Services Division, proposes to adopt LAC 61.III.1532, Payment of Taxes by Credit or Debit Cards; Other, to provide special provisions for payment of taxes by credit or debit cards.

The proposed Rule identifies tax and nontax errors related to payments of taxes by credit or debit card and provides the applicable procedures for resolution of the errors. Specifically, this Rule provides that when a credit or debit card is accepted as a method of payment of taxes, matters concerning the payment are subject to the applicable error resolution procedures of the Truth in Lending Act, the Electronic Fund Transfer Act, or similar provisions of state law, only for the purpose of resolving errors relating to the credit card or debit card account, but not for resolving any errors, disputes, or adjustments relating to the underlying tax liability. Additionally, this Rule provides the limited purposes and activities for which information relating to

payment, or processing of payment, of taxes by credit and debit card may be used or disclosed.

The full text of this proposed Rule may be viewed in the Emergency Rule portion of this edition of the *Louisiana Register*.

Family Impact Statement

This Family Impact Statement is provided as required by Act 1183 of the 1999 Regular Session of the Louisiana Legislature.

1. Implementation of this proposed Rule will have no effect on the stability of the family.

2. Implementation of this proposed Rule will have no effect on the authority and rights of parents regarding the education and supervision of their children.

3. Implementation of this proposed Rule will have no effect on the functioning of the family.

4. Implementation of this proposed Rule will have no effect on family earnings and family budget.

5. Implementation of this proposed Rule will have no effect on the behavior and personal responsibility of children.

6. Implementation of this proposed Rule will have no effect on the ability of the family or a local government to perform this function.

Interested persons may submit data, views, or arguments, in writing to Annie L. Gunn, Attorney, Policy Services Division, Department of Revenue, P.O. Box 44098, Baton Rouge, LA 70804-4098 or by fax to (225) 219-2759. All comments must be submitted by February 27, 2008. A public hearing will be held on February 28, 2008, at 2 p.m. in the River Room on the 7th Floor of the LaSalle Building at 617 North Third Street, Baton Rouge, LA 70802-5428.

Cynthia Bridges
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Payment of Taxes by Credit or Debit
Cards; Other**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO
STATE OR LOCAL GOVERNMENT UNITS (Summary)**

This proposed rule, which provides that credit and debit card payments are subject to the applicable error resolution procedures of the Truth in Lending Act, the Electronic Fund Transfer Act, or other similar provisions of state law for the purpose of resolving errors relating to the credit or debit card account, but not for resolving any errors, disputes or adjustments relating to the underlying tax liability, will have negligible effect on the Department's costs.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE
OR LOCAL GOVERNMENTAL UNITS (Summary)**

This proposed rule, which provides the applicable procedures and special provisions for the resolution of errors relating to payments of taxes by credit and debit card accounts, will have no impact on the revenue collections of state or local governmental units.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO
DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL
GROUPS (Summary)**

Taxpayers that make tax payments by credit and debit cards will be responsible for payment of any fee charged for making payment by that method. The taxpayer cost should be minimal, approximately 2.5 percent of the payment amount for credit

and debit card payments, and the taxpayer is free to elect another payment method to avoid the cost.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This proposed rule should not affect competition or employment.

Cynthia Bridges
Secretary
0801#023

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Social Services
Office of Community Services**

Refugee Resettlement Program (LAC 67.V.Chapter 5)

The Louisiana Department of Social Services, Office of Community Services, announces its intention to repeal LAC 67: Part V, Subpart 2, Chapter 5, Refugee Resettlement Program, in its entirety. This program is no longer administered by the Office of Community Services.

The proposed Rule has no known impact on family formation, stability, or autonomy, as described in R.S. 49:972.

**Title 67
SOCIAL SERVICES**

**Part V. Office of Community Services
Subpart 2. Community Services**

Chapter 5. Refugee Resettlement Program

Subchapter A. Goals and Services

§501. Authority

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S.36:474(3).

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Services, LR 29:713 (May 2003), repealed LR 34:

§503. Program Goals

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S.36:474(3).

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Services, LR 29:713 (May 2003), repealed LR 34:

§505. Program Services

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S.36:474(3).

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Services, LR 29:713 (May 2003), repealed LR 34:

Subchapter B. Refugee Cash Assistance

§507. Application, Eligibility, and Incentive Bonuses for Refugee Cash Assistance

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S.36:474(3).

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Services, LR 29:713 (May 2003), repealed LR 34:

§509. Amount of Refugee Cash Assistance

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S.36:474(3).

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Services, LR 29:713 (May 2003), repealed LR 34:

§511. Mandatory Participation in Employment Services

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S.36:474(3).

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Services, LR 29:713 (May 2003), repealed LR 34:

Subchapter C. Refugee Medical Assistance

§513. Eligibility and Furnishing Services for Refugee Medical Assistance

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S.36:474(3).

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Services, LR 29:713 (May 2003), repealed LR 34:

Subchapter D. Refugee Social Services

§515. Application, Eligibility, and furnishing of Refugee Social Services

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:474(3).

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 17:1226 (December 1991), amended by the Department of Social Services, Office of Community Services, LR 29:713 (May 2003), repealed LR 34:

All interested persons may submit written comments through March 14, 2008, to Marketa Garner Gautreau, Assistant Secretary, Office of Community Services, P. O. Box 3318, Baton Rouge, LA 70821.

Ann Silverberg Williams
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

RULE TITLE: Refugee Resettlement Program

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The Department of Social Services proposes to repeal the rule relative to the Refugee Resettlement Program because the Department no longer administers the program. The U.S. Department of Health and Human Services designated the Catholic Community Services Inc. of Baton Rouge to serve as the states' Grantee to administer this program.

To repeal the rule in FY 07-08, there is a one time publication cost of \$34 for publishing the notice of intent and a one time publication cost of \$34 for publishing the final rule, totaling \$68. The publishing costs are routinely included in the agency's annual budget.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Implementation of this rule will have no effect on state or local revenue collections.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There will be no costs or economic benefit to directly affected persons or governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule will have no impact on competition and employment.

Marketa Garner Gautreau
Assistant Secretary
0801#057

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Social Services
Office of Family Support**

Child Care Assistance Program—Provider
Registration/Certification Requirements and
Annual Revision of Sliding Fee Scale
(LAC 67:III.5103, 5107 and 5109)

In accordance with R.S.49: 950 et seq., the Administrative Procedure Act, the Department of Social Services, Office of Family Support, proposes to amend the Louisiana Administrative Code 67:III, Subpart 12 Chapter 51, Subpart A §5103 and Subpart B §5107 and §5109. This amendment is pursuant to the authority granted to the Department by the Child Care and Development Fund (CCDF).

Section 5103 is being amended to exclude earnings received from the Corporation for National and Community Service (CNCS), from college work study, and from disaster-related employment.

Section 5107 is being amended to require Family Child Day Care Home (FCDCH) providers to complete registration requirements as provided in R.S. 46:1441 et seq. in addition to DSS registration requirements in order to be eligible for participation in CCAP; to require qualified FCDCH providers who are related to a child in care and In-Home child care providers to obtain training specifically in Infant/Child/Adult CPR; to require FCDCH and In-Home child care providers to obtain training specifically in pediatric first aid; to require qualified FCDCH providers who are related to a child in care to submit to a criminal background check(s) on all adults living at the provider's residence or employed by the provider and working in the provider's home or on the provider's home property, including the provider; to require FCDCH providers who do not have a telephone in their residence and In-Home providers caring for children in a residence in which there is no telephone to possess a working telephone capable of incoming and outgoing calls that is accessible at all times in the residence in which care is being provided; and to comply with state law so that an individual will no longer be able to be a CCAP provider if a required criminal background check is not clear, even if approved in writing by a district judge of the parish and the local district attorney.

Section 5109 is being amended to provide for revising the sliding fee scale for non-FITAP recipients annually, to the extent that funds are available, based on the state median income and poverty level.

Section 5107.F of this Rule was effected November 30, 2007, by a Declaration of Emergency published in the December 2007 issue of the Louisiana Register.

Title 67

SOCIAL SERVICES

Part III. Family Support

Subpart 12. Child Care Assistance

Chapter 51. Child Care Assistance Program

Subchapter A. Administration, Conditions of Eligibility, and Funding

§5103. Conditions of Eligibility

A. - B.4.e. ...

5. Household income does not exceed 75 percent of the State Median Income for a household of the same size. Income is defined as:

a. the gross earnings of the head of household, that person's legal spouse, or non-legal spouse and any minor unmarried parent who is not legally emancipated and whose children are in need of Child Care Assistance, with the exception of income from:

i. Corporation for National and Community Service (CNCS);

ii. College Work Study; and

iii. disaster-related employment.

B.5.b. - D. ...

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Parts 98 and 99, P.L.104-193, Act 58 2003 Reg. Session, ACF Guidance: ACYF-IM-CC-05-03.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 24:356 (February 1998), amended LR 25:2444 (December 1999), LR 26:2827 (December 2000), LR 27:1932 (November 2001), LR 28:1490 (June 2002), LR 29:43 (January 2003), LR 29:1106 (July 2003), LR 29:1833 (September 2003), LR 30:496 (March 2004), LR 30:1487 (July 2004), LR 31:101 (January 2005), LR 31:2263 (September 2005), LR 32:1464 (August 2006), LR 33:506 (March 2007), LR 34:

Subchapter B. Child Care Providers

§5107. Child Care Provider

A. - B. ...

C. An FCDCH provider must be registered and active in the CCAP Provider Directory before payments can be made to that provider.

1. To be eligible for participation, in CCAP, an FCDCH provider must complete registration requirements as provided in R.S. 46:1441 et seq., complete and sign an FCDCH provider agreement, complete a CCAP application for registration and Form W-9, pay appropriate fees, furnish verification of Social Security number and residential address, provide proof that he/she is at least 18 years of age, and meet all registration requirements, including:

a. certification that they, nor any person employed in their home or on their home property, have never been the subject of a validated complaint of child abuse or neglect, or have never been convicted of, or pled no contest to, a crime listed in R.S. 15:587.1.(C);

b. submission of verification of current certification in infant/child or infant/child/adult Cardiopulmonary Resuscitation (CPR) if the provider is a relative of a child in care;

c. submission of verification of current certification in pediatric first aid;

d. submission to criminal background check(s) on all adults living at the provider's residence or employed by the provider and working in the provider's home or on the provider's home property, including the provider; each of which must be received from State Police indicating no enumerated conviction if the provider is a relative of a child in care;

e. effective March 1, 2002, submission of verification of 12 clock hours of training in job-related subject areas approved by the Department of Social Services annually;

f. retainment of a statement of good health signed by a physician or his designee which must have been obtained within the past three years and be obtained every three years thereafter;

g. possession of a working telephone that can receive incoming calls and that can send outgoing calls and that is available at all times in the home in which care is being provided;

h. usage of only safe children's products and removal from the premises of any products which are declared unsafe and recalled as required by R.S.46:2701-2711. (CCAP FCDCH providers will receive periodic listings of unsafe and recalled children's products from the Consumer Protection Section of the Attorney General, Public Protection Division);

i. caring for no more than six children, including his own children and any other children living at his residence, who are under age 13 or age 13 through 17 if disabled.

C.2. - D.1.a. ...

b. submission of verification of current certification in infant/child/adult Cardiopulmonary Resuscitation (CPR) and pediatric first aid:

c. - d. ...

e. possession of or access to a working telephone that can receive incoming calls and that can send outgoing calls and that is available at all times in the home in which care is being provided.

E. - F.4. ...

5. an individual who has been the subject of a validated complaint of child abuse or neglect, or has been convicted of, or pled no contest to, a crime listed in R.S. 15:587.1(C);

6. an FCDCH provider who resides with or employs a person in their home or on their home property who has been the subject of a validated complaint of child abuse or neglect, or has been convicted of, or pled no contest to, a crime listed in R.S. 15:587.1.C;

F.7. - I.2.b. ...

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Parts 98 and 99, P.L. 104-193, Act 152, 2002 First Extraordinary Session, Act 13, 2002 Reg. Session, Act 58, 2003 Reg. Session, ACF Guidance: ACYF-IM-CC-05-03.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 24:357 (February 1998), amended LR 25:2444 (December 1999), LR 26:2827 (December 2000), LR 27:1932 (November 2001), LR 28:349 (February 2002), LR 28:1491 (June 2002), LR 29:43 (January 2003), LR 29:189 (February 2003), LR 30:496 (March 2004), LR 30:1484 (July 2004), LR 30: 1487 (July 2004), LR 31:102 (January 2005), LR 31:2263 (September 2005), LR 32:1465 (August 2006), LR 33:507 (March 2007), LR 34:

§5109 Payment

A. The sliding fee scale used for non-FITAP recipients will be revised based on the state median income and federal poverty levels, on an annual basis to the extent that funds are available. A non-FITAP household shall pay a portion of its child care costs monthly in accordance with the sliding fee scale, and this shall be referred to as a "co-payment." The sliding fee scale is based on a percentage of the state median income.

B. - F. ...

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Parts 98 and 99, and P.L. 104-193, ACF Guidance: ACYF-IM-CC-05-03.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 24:357 (February 1998), amended LR 25:2445 (December 1999), LR 26:2828 (December 2000), LR 27:1933 (November 2001), LR 28:1491 (June 2002), LR 29:1834 (September 2003), LR 30:1485 (July 2004), repromulgated LR 30:2078 (September 2004), amended LR 31:2265 (September 2005), LR 32:1465 (August 2006), LR 33:507 (March 2007), LR 34:

Family Impact Statement

1. What effect will this Rule have on the stability of the family? This proposed rule should have no impact on the stability of the family.

2. What effect will this Rule have on the authority and rights of persons regarding the education and supervision of their children? This proposed rule will have no effect on the authority and rights of persons regarding the education and supervision of their children.

3. What effect will this Rule have on the functioning of the family? This proposed rule should have no effect on the functioning of the family.

4. What effect will this Rule have on family earnings and family budget? The proposed change to revise the sliding fee scale used for non-FITAP recipients on an annual basis based on the state median income and poverty levels may or may not have a positive impact on family budget as state median income and poverty level are subject to decline or increase or may be nearly unchanged from year to year. This proposed change would not have any impact on family earnings. The proposed change to exclude the earnings of individuals who volunteer for organizations that receive a grant from the CNCS, from college work study, and from disaster employment may have a positive effect on family budget as the families may receive a greater portion of agency payment of their child care costs. This proposed change would have no impact on family earnings. The other proposed changes should have no impact on family earnings and family budget.

5. What effect will this Rule have on the behavior and personal responsibility of children? This proposed Rule will have no effect on the behavior and personal responsibility of children.

6. Is the family or local government able to perform the function as contained in this proposed Rule? No, this program is strictly an agency function.

All interested persons may submit written comments through, February 28, 2008, to Adren O. Wilson, Assistant Secretary, Office of Family Support, Post Office Box 94065, Baton Rouge, LA, 70804-9065.

A public hearing on the proposed Rule will be held on February 28, 2008, at the Department of Social Services,

Iberville Building, 627 N. Fourth Street, Seminar Room 1-129, Baton Rouge, LA, beginning at 9:15 a.m. All interested persons will be afforded an opportunity to submit data, views, or arguments, orally or in writing, at said hearing. Individuals with disabilities who require special services should contact the Bureau of Appeals at least seven working days in advance of the hearing. For assistance, call area code (225) 342-4120 (Voice and TDD).

Ann Silverberg Williamson
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Child Care Assistance Program Provider Registration/Certification Requirements and Annual Revision of Sliding Fee Scale

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

This rule proposes to amend the Louisiana Administrative Code 67:III to exclude from the definition of household income the earnings received from the Corporation for National and Community Services, college work study, and disaster-related employment; to require qualified Family Child Day Care Home (FCDCH) providers and In-Home providers to be certified in pediatric first aid training in lieu of generic first aid training; to require FCDCH providers and In-Home providers to possess a working telephone capable of incoming and outgoing calls that is accessible at all times in the residence in which care is being provided; to provide that the sliding fee scale, which is used for child care assistance for non-FITAP recipients, be revised annually to the extent that funds are available; and to make some technical changes to revise or exclude language that is no longer needed.

There may be a cost to the State associated with the annual revision of the sliding fee scale for Child Care Assistance; however, this cost cannot be determined at this time but is expected to be minimal. The agency will use Child Care and Development Funds to cover any increase in costs that may result from any adjustments to the sliding fee scale. There is no expected cost associated with the exclusion of earnings from household income for the above-mentioned sources because there are no participants that currently receive those types of income. However, if future participants have income that qualify for this exclusion, then it is anticipated that there may be a minimum increase in cost that would be funded with Child Care and Development Funds. There is an estimated cost of \$600 for publishing and printing the rule. This cost is routinely covered in the agency's budget.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no impact on revenue collections for state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The only additional cost expected is for Qualified Family Child Day Care Home (FCDCH) providers who do not have a telephone in their residence and In-Home providers caring for children in a residence in which there is no telephone would incur a cost as a result of the requirement that they possess a working telephone capable of incoming and outgoing calls that is accessible at all times in the residence in which care is being provided. Although, the number of providers who do not currently have a telephone is unknown, it is anticipated that the cost will be minimal.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule will have no impact on competition and employment.

Adren O. Wilson
Assistant Secretary
0801#062

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Social Services Office of Family Support

TANF—Language Clarifications (LAC 67:III.Chapter 55)

In accordance with R.S.49:950 et seq., the Administrative Procedure Act, the Department of Social Services, Office of Family Support, proposes to adopt revisions to LAC 67:III:Subpart 15, Chapter 55 Temporary Assistance for Needy Families (TANF) Initiatives.

Pursuant to Act 18 of the 2007 Regular Session of the Louisiana Legislature, the agency is adopting revisions to Chapter 55 TANF Initiatives. The purpose of the modifications is to align the Louisiana Administrative Code with Louisiana's TANF State Plan to assure that the Agency is in compliance with both federal and state regulations. Changes include the addition of a definition of family for each TANF Initiative, the addition of TANF goal numbers, and the addition of language needed to clarify existing descriptions of TANF Initiatives. Sections 5507, 5521, 5523, 5535, 5565, and 5585 are being repealed because they are no longer funded TANF Initiatives. The additions and exclusions do not change the services provided to participants.

This Rule was effected January 1, 2008, by a Declaration of Emergency published in the January 2008 issue of the Louisiana Register.

Title 67

SOCIAL SERVICES

Part III. Family Support

Subpart 15. Temporary Assistance for Needy Families (TANF) Initiatives

Chapter 55. TANF Initiatives

§5505. Nonpublic School Early Childhood Development Program

A. ...

B. These services meet TANF goal 3, to prevent and reduce the incidence of out-of-wedlock pregnancies and TANF goal 4, to encourage the formation and maintenance of two-parent families by placing children in learning environments at the pre-school level to foster an interest in learning, increase literacy levels, and increase the likelihood of developing responsible behavior.

C. Eligibility for services is limited to families in which the child is one year younger than the eligible age for public school kindergarten and who have earned income at or below 200 percent of poverty level. A needy family consists of minor children residing with custodial parents, or caretaker relatives of minor children.

D. ...

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; R.S. 46:231 and R.S. 36:474; Act 12, 2001 Reg. Session, Act 18, 2007 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 28:350(February 2002), amended LR 29:715 (May 2003), LR 30:501 (March 2004), LR 34:

§5507. Adult Education, Basic Skills Training, Job Skills Training, and Retention Services Program

Repealed.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; R.S. 46:231 and R.S. 36:474; Act 12, 2001 Reg. Session; Act 14, 2003 Reg. Session, Act 18, 2007 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 28:870 (April 2002), amended LR 29:44 (January 2003), LR 30:501 (March 2004), repealed LR 34:

§5509. Domestic Violence Services

A. ...

B. These services meet TANF goal 4, to encourage the formation and maintenance of two-parent families.

C. Eligibility for services is not limited to needy families. Eligibility for services is limited to children and/or their parents or caretaker relatives who are victims of domestic violence. A family consists of a minor child residing with a custodial parent or caretaker relative of the minor child, and non-custodial parents.

D. - E. ...

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; R.S. 46:231 and R.S. 36:474; HB 1 2006 Reg. Session, Act 18, 2007 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 32:2099 (November 2006), amended LR 33:2205 (October 2007), LR 34:

§5511. Micro-Enterprise Development Program

A. ...

B. These services meet TANF goal 2, to end the dependence of needy parents on government benefits by promoting job preparation, work, and marriage. This goal will be accomplished by providing assistance to low-income families through the development of comprehensive micro-enterprise development opportunities as a strategy for moving parents into self-sufficiency.

C. Eligibility for services is limited to needy families, that is, a family in which any member receives a Family Independence Temporary Assistance Program (FITAP) grant, Kinship Care Subsidy Program (KCSP) grant, Food Stamps, Child Care Assistance Program (CCAP) benefits, Medicaid, Louisiana Children's Health Insurance Program (LaCHIP), Supplemental Security Income (SSI), Free or Reduced School Lunch, or who has earned income at or below 200 percent of the federal poverty level. A family consists of a minor child residing with custodial parents or caretaker relatives. Only the parent or caretaker relative within the needy family is eligible to participate.

D. ...

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; R.S. 46:231 and R.S. 36:474; Act 16, 2005 Reg. Session, Act 18, 2007 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, amended LR 32:1914 (October 2006), LR 34:

§5521. Women and Children's Residential Prevention and Treatment Program

Repealed.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; R.S. 46:231 and R.S. 36:474; Act 12, 2001 Reg. Session, Act 13, 2002 Reg. Session Act 18, 2007 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 28:352 (February 2002), LR 29:373 (March 2003), repealed LR 34:

§5523. Early Childhood Development Program

Repealed.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; R.S. 46:231 and R.S. 36:474; Act 12, 2001 Reg. Session Act 18, 2007 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 28:352 (February 2002), repealed LR 34:

§5531. After-School Tutorial and Summer Enrichment Programs

A. ...

B. These services meet TANF goal 3, to prevent and reduce the incidence of out-of-wedlock pregnancies by providing intervention and improved life prospects for students who show evidence of academic underperformance, dropping out, or engaging in negative behaviors that can lead to dependency and out-of-wedlock pregnancies, imprisonment, etc.

C. Eligibility for services is not limited to needy families. A family consists of a minor child residing with a custodial parent or caretaker relative of the minor child, and non-custodial parents.

D. ...

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; R.S. 36:474 and 46:231; Act 12, 2001 Reg. Session, and Act 13, 2002 Reg. Session, Act 18, 2007 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 28:352 (February 2002), amended LR 28:2373 (November 2002), LR 34:

§5535. Fatherhood

Repealed.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; R.S. 36:474 and 46:231; Acts 12 and 639, 2001 Reg. Session Act 18, 2007 Reg. Session..

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 28:353 (February 2002), LR 34:

§5539. Truancy Assessment and Service Centers

A. Effective October 1, 2005, OFS shall enter into Memoranda of Understanding or contracts for Truancy Assessment and Service Centers designed to identify, assess, and provide counseling to children in kindergarten through sixth grade and family members to assure regular school attendance and improved academic and behavioral outcomes.

B. These services meet TANF goal 3, to prevent and reduce the incidence of out-of-wedlock pregnancies by providing counseling to children and family members designed to assure regular school attendance and improved academic and behavioral outcomes.

C. Eligibility for services is not limited to needy families. A family consists of a minor child residing with a custodial parent or caretaker relative of the minor child, and non-custodial parents.

D. ...

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; R.S. 46:231 and R.S. 36:474; Act 16, 2005 Reg. Session, Act 18, 2007 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 32:264 (February 2006), amended LR 34:

§5541. Court-Appointed Special Advocates

A. OFS shall enter into Memoranda of Understanding with the Supreme Court of Louisiana to provide services to needy children identified as abused or neglected who are at risk of being placed in foster care or, are already in foster care. Community advocates provide information gathering and reporting, determination of and advocacy for the children's best interests, and case monitoring to provide for the safe and stable maintenance of the children or return to their own home.

B. The services meet TANF goal 1, to provide assistance to needy families so that children may be cared for in their own homes or in the homes of relatives by ensuring that the time children spend in foster care is minimized.

C. Eligibility for services is limited to needy families, that is, one in which any member receives a Family Independence Temporary Assistance Program (FITAP) grant, Kinship Care Subsidy Program (KCSP) grant, Food Stamp benefits, Child Care Assistance Program (CCAP) services, Title IV-E, Medicaid, Louisiana Children's Health Insurance Program (LaCHIP) benefits, Supplemental Security Income (SSI), Free or Reduced School Lunch, or who has earned income at or below 200 percent of the federal poverty level. A family consists of minor children residing with custodial parents, or caretaker relatives of minor children.

D. ...

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; R.S. 46:231 and R.S. 36:474; Act 12, 2001 Reg. Session; Act 1, 2004 Reg. Session, Act 18, 2007 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 28:871 (April 2002), amended LR 31:485 (February 2005), LR 34:

§5543. Drug Courts Program

A. OFS shall enter into a Memorandum of Understanding with the Supreme Court of Louisiana to provide services to drug court clients that may include non-medical treatment, assessment, counseling, education, and training. Eligible services shall not include drug court administrative costs.

B. These services meet TANF goal 3, to prevent and reduce the incidence of out-of-wedlock pregnancies and TANF goal 4, to encourage the formation and maintenance of two-parent families by providing assessment, counseling, education, training, non-medical treatment, etc.

C. Eligibility for services is limited to children and to the parents or caretaker relatives of minor children. A family consists of a minor child residing with a custodial parent or caretaker relative of the minor child, and non-custodial parents.

D. ...

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; R.S. 46:231 and R.S. 36:474; Act 12, 2001 Reg. Session, Act 18, 2007 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 28:353 (February 2002), amended LR 34:

§5545. Remediation and Tutoring Programs

A. OFS shall enter into a Memorandum of Understanding with the Department of Education to establish programs designed to increase the likelihood of a student scoring above the "unsatisfactory" achievement level

on the Graduate Exit Exam and the LEAP 21 exam and include:

1. - 3. ...

B. These services meet TANF goal 3, to prevent and reduce the incidence of out-of-wedlock pregnancies by encouraging youths to remain in school, reducing their risk of engaging in negative behavior and increasing opportunities for families to become self-sufficient through education and training.

C. - D. ...

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; R.S. 46:231 and R.S. 36:474; Act 12, 2001 Reg. Session, Act 18, 2007 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 28:353 (February 2002), amended LR 31:485 (February 2005), LR 34:

§5549. OCS Child Welfare Programs

A. OFS shall enter into a Memorandum of Understanding with the Office of Community Services (OCS), the state child welfare agency, for collaboration in identifying and serving children in needy families who are at risk of abuse or neglect. The methods of collaboration include:

1. *Child Protection Investigation (CPI)*—comprises services to assess the validity of a report of child abuse or neglect involving a minor child or children residing with a custodial parent, an adult caretaker relative, or a legal guardian, to determine whether an emergency exists, and when deemed necessary, to develop a safety plan which may include coordination of services, emergency removal and placement, referral to OCS Family Services or another appropriate agency, short term counseling, parenting guidance, and/or arrangements for concrete services, such as the Preventive Assistance Fund (PAF) and Reunification Assistance Fund (RAF).

2. ...

B. These services meet TANF goal 1, to provide assistance to needy families so that children may be cared for in their own homes or in the homes of relatives.

C. - D. ...

E. Direct services that may be provided in response to an episode of need or a specific crisis situation and are non-recurrent, such as but not limited to food, clothing, and shelter assistance, will not be provided beyond four months.

AUTHORITY NOTE: Promulgated in accordance with 42 USC 601 et seq.; R.S. 46:231 and R.S. 36:474; Act 16, 2005 Reg. Session, Act 18, 2007 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR:2374 (November 2002), amended LR 31:486 (February 2005), LR 32:2099 (November 2006), LR 34:

§5551. Community Response Initiatives

A. The Office of Family Support, may enter into Memoranda of Understanding or contracts to develop innovative and strategic programming solutions suited to the unique needs of Louisiana's communities.

B. The services provided by the various partners must meet one, or a combination of, the four TANF goals.

1. Goal 1: to provide assistance to needy families so that children may be cared for in their own homes or in the homes of relatives;

2. Goal 2: to end dependence of needy parents on government benefits by promoting job preparation, work, and marriage;

3. Goal 3: to prevent and reduce the incidence of out-of-wedlock pregnancies; and

4. Goal 4: to encourage the formation and maintenance of two-parent families.

C. Eligibility for those services meeting TANF goals 1 and 2 is limited to needy families, that is, a family in which any member receives a Family Independence Temporary Assistance Program (FITAP) grant, Kinship Care Subsidy Program (KCSP) grant, Food Stamp benefits, Child Care Assistance Program (CCAP) services, Title IV-E, Medicaid, Louisiana Children's Health Insurance Program (LaChip) benefits, Supplemental Security Income (SSI), Free or Reduced Lunch, or who has earned income at or below 200 percent of the federal poverty level. For TANF goals 1 and 2 a family consists of minor children residing with custodial parents, or caretaker relatives of minor children.

D. Eligibility for those services meeting TANF goals 3 and 4 may include any family in need of the provided services regardless of income. For TANF goals 3 and 4 a family consists of a minor child residing with a custodial parent or caretaker relative of the minor child, and non-custodial parents, and legal guardians.

E. ...

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; R.S. 46:231 and R.S. 36:474; Act 13, 2002 Reg. Session, Act 18, 2007 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 28:2374 (November 2002), amended LR 34:

§5555. Individual Development Account Program

A. OFS shall establish the Individual Development Account (IDA) Program to provide asset and savings opportunities to low-income families for specific purposes as well as provide financial management education. The agency will contract to develop and administer the IDA Program for low-income families.

B. - D. ...

* * *

E. These services meet TANF goal 1, to provide assistance to needy families so that children may be cared for in their own homes or in homes of relatives. A family consists of minor children living with custodial parents or caretaker relatives of minor children.

F. - G. ...

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; R.S. 36:474 and 46:231; Act 1098, 2001 Reg. Session; Act 84, 2002 First Extraordinary Session; Act 13, Reg. Session; HB 1, 2006 Reg. Session, Act 18, 2007 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 29:45(January 2003), amended LR: 32.2099 (November 2006), LR 34:

§5559. Early Childhood Supports and Services

Program

A. The Office of Family Support, shall enter into a Memoranda of Understanding or contracts to create programs to identify and provide supports and services to young children, ages 0 - 5, and their families who are at risk of developing cognitive, behavioral, and relationship difficulties. Services may include but are not limited to:

1. - 12. ...

B. Services offered by providers meet one or more of the following TANF goals.

1. Goal 1: to provide assistance to needy families so that children may be cared for in their own homes or in the home of a relative;

2. Goal 2: to end dependence of needy parents on government benefits by promoting job preparation, work, and marriage; and

3. Goal 3: to prevent and reduce the incidence of out-of-wedlock pregnancies; and

4. Goal 4: to encourage the formation and maintenance of two-parent families.

C. Eligibility for services is limited to at-risk families that include a child age 0-5 years, and who have earned income at or below 200 percent of the federal poverty level. A family consists of a minor child residing with a custodial parent or caretaker relative of the minor child, and non-custodial parents.

D. ...

E. Repealed.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; R.S. 46:231 and R.S. 36:474; Act 13, 2002 Reg. Session, Act 18, 2007 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 29:44(January 2003), amended LR 34:

§5561. Early Childhood Education and Parenting Services Programs

A. The Office of Family Support, shall enter into Memoranda of Understanding or contracts to create quality, early childhood education and parenting services programs at various sites, such as schools, Head Start and Early Head Start Centers, churches, Class A Day Care Centers, and Family Child Day Care Homes to provide children with age-appropriate services during the school year, school holidays, summer months and before-and-after school and to provide parents, legal guardians, or caretaker relatives of children with parenting and adult/family educational services. The development of public education materials and training for parents, providers, professionals, and interested parties to educate and promote the services offered by this program and to encourage participation in the programs as well as the Child Care Assistance Program may be included in the contracts or be entered into as specific contracts promote applications for CCAP; assist providers; encourage eligible families to apply for services offered through OFS; and educate parents and others who have an interest in children and families about criteria of quality child care and the needs of young children.

B. Services offered by providers meet TANF goal 3, to prevent and reduce the incidence of out-of-wedlock pregnancies by providing supervised, safe environments for children thus limiting the opportunities for engaging in risky behaviors, and TANF goal 4, to encourage the formation and maintenance of two-parent families by providing educational services to parents or other caretakers to increase their own literacy level and effectiveness as a caregiver, and to foster positive interaction with their children.

C. - D. ...

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; R.S. 46:231 and R.S. 36:474; Act 13, 2002 Reg. Session, Act 18, 2007 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 29:190 (February 2003), amended LR 31:486 (February 2005), LR 34:

§5563. Substance Abuse Treatment Program for Needy Families

A. ...

B. These services meet TANF goal 2, to end the dependence of needy parents on government benefits by providing needy families with substance abuse treatment so that they may become self-sufficient in order to promote job preparation, work, and marriage.

C. Eligibility for services is limited to needy families, that is, a family in which any member receives a Family Independence Temporary Assistance Program (FITAP) grant, Kinship Care Subsidy Program (KCSP) grant, Food Stamp benefits, Child Care Assistance Program (CCAP) services, Medicaid, Louisiana Children's Health Insurance Program (LaChip) benefits, Supplemental Security Income (SSI), Free or Reduced Lunch, or who has earned income at or below 200 percent of the federal poverty level. A needy family includes a minor child living with a custodial parent or caretaker relative who has earned income at or below 200 percent of the federal poverty level.

D. ...

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; R.S. 46:231 and R.S. 36:474; Act 13, 2002 Reg. Session, Act 18, 2007 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 29:190 (February 2003), amended LR 31:486 (February 2005), LR 34:

§5565. Family Strengthening and Healthy Marriages

Repealed.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; R.S. 46:231 and R.S. 36:474; Act 13, 2002 Reg. Session, Act 18, 2007 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 29:191 (February 2003), repealed LR 34:

§5569. Alternatives to Abortion

A. Effective June 1, 2006, the Office of Family Support shall enter into contracts to provide intervention services including crisis intervention, counseling, mentoring, support services, and pre-natal care information, in addition to information and referrals regarding healthy childbirth, adoption, and parenting to help ensure healthy and full-term pregnancies as an alternative to abortion.

B. These services meet TANF goal 1, to provide assistance to needy families so children may be cared for in their own homes or in the homes of relatives and TANF goal 4, to encourage the formation and maintenance of two-parent families by providing pregnancy and parenting support to low-income women, their male partners, and families who are experiencing an unplanned pregnancy.

C. - D. ...

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; R.S. 46:231 and R.S. 36:474; Act 16, 2005 Reg. Session, Act 18, 2007 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 32:2099 (November 2006), amended LR 34:

§5571. Parenting/Fatherhood Services Program

A. The Office of Family Support shall enter into contracts to create programs that will assist low-income fathers with various skills including employment, life, parenting, and other skills in order to increase their ability to provide emotional and financial support for their children, and to create a network of community- and faith-based

programs that will provide linkages to and for state entities, specifically Child Support Enforcement Services.

B. These services meet TANF goal 2, to end the dependence of needy parents on government benefits by promoting job preparation, work, and marriage, and TANF goal 4, to encourage the formation and maintenance of two-parent families by eliminating emotional, social, financial, and legal barriers that hinder a father's ability to be fully engaged in his children's lives.

C. Eligibility for services is limited to fathers of minor children, who have earned income at or below 200 percent of the federal poverty level.

D. ...

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; R.S. 46:231 and R.S. 36:474; Act 13, 2002 Reg. Session, Act 18, 2007 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 29:191 (February 2003), amended LR 34:

§5573. Community Supervision Program (CSP)

A. OFS shall enter into a Memorandum of Understanding (MOU) with the Department of Public Safety and Corrections-Youth Services, Office of Youth Development (DPSC-YS/OYD), to provide services to youth and their families as a result of an adjudication and disposition by a court that orders DPSC-YS/OYD to supervise youth in their communities in an effort to prevent removal from the home.

B. - B.4. ...

C. These services meet TANF goal 1, to provide assistance to needy families so that children may be cared for in their own homes or in the homes of relatives by providing services to youth, who are in jeopardy of removal from their homes, and their families.

D. Financial eligibility for those services attributable to TANF/Maintenance of Effort (MOE) funds is limited to eligible families, which include a minor child living with a custodial parent or an adult caretaker relative. An eligible family is one in which any member receives a Family Independence Temporary Assistance Program (FITAP) grant, Kinship Care Subsidy Program (KCSP) grant, Food Stamp benefits, Child Care Assistance Program (CCAP) services, Title XIX (Medicaid) Medical Assistance Program benefits, Louisiana Children's Health Insurance Program (LACHIP) benefits, or Supplemental Security Income (SSI).

E. Services are considered non-assistance by the agency.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; R.S. 46:231 and R.S. 36:474., amended Act 18, 2007 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 29:2511 (November 2003), amended LR 31:487 (February 2005), LR 34:

§5575. Teen Pregnancy Prevention Program

A. Effective July 1, 2003, Office of Family Support shall enter into Memoranda of Understanding or contracts to prevent or reduce out-of-wedlock and teen pregnancies by enrolling youth ages 8 through 20 in supervised, safe environments, with adults leading activities according to a research-based model aimed at reducing teen pregnancy.

B. Services offered by providers meet TANF goal 3, to prevent and reduce the incidence of out-of-wedlock pregnancies by providing research-based prevention and intervention programming for students who live in poor

communities and/or show evidence of academic underperformance, dropping out, or engaging in negative behaviors that can lead to dependency, out-of-wedlock births, or imprisonment.

C. - D. ...

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; R.S. 46:231 and R.S. 36:474; Act 14, 2003 Reg. Session, Act 18, 2007 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 30:502 (March 2004), amended LR 34:

§5581. Earned Income Tax Credit (EITC) Program

A. ...

B. These services meet TANF goal 2, effective November 1, 2006, to end dependence of needy parents on government benefits by promoting job preparation, work, and marriage.

C. Effective November 1, 2006, eligibility for services is limited to those families with minor children who meet the Internal Revenue Service's EITC income eligibility standards. A family consists of minor children residing with custodial parents or caretaker relatives of minor children.

D. ...

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; R.S. 46:231 and R.S. 36:474; Act 1, 2004 Reg. Session, Act 16, 2005 Reg. Session, Act 18, 2007 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 31:1610 (July 2005), amended LR 33:675 (April 2007), LR 34:

§5583. Temporary Emergency Disaster Assistance Program

A. - A.2. ...

B. These services meet TANF goal 2, to end dependence of needy parents on government benefits by promoting job preparation, work and marriage and TANF goal 4, to encourage the formation and maintenance of two-parent families.

C. - F. ...

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; R.S. 46:231 and R.S. 36:474; Act 16, 2005 Reg. Session, P.L. 109-168 TANF Emergency Response and Recovery Act of 2005, Act 18, 2007 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR:32:1617 (September 2006), amended LR 33:2205 (October 2007), LR 34:

§5585. Third Party In-Kind Contributions as TANF MOE

Repealed.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; R.S. 46:231 and R.S. 36:474; Act 16, 2005 Reg. Session, Act 18, 2007 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 32:1914 (October 2006), repromulgated .LR 32:2100 (November 2006), repealed LR 34:

§5587. Children's Defense Fund Freedom Schools

A. ...

B. These services meet TANF goal 3, to prevent and reduce the incidence of out-of-wedlock pregnancies by providing improved life prospects for students who show evidence of failing, dropping out or engaging in negative behaviors that can lead to out-of-wedlock births.

C. ...

D. Services are considered non-assistance by the agency.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; R.S. 46:231 and R.S. 36:474; HB 1 2006 Reg. Session, Act 18, 2007 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 32:2099 (November 2006), amended LR 34:

§5589. Homeless Initiative

A. ...

B. These services meet TANF goal 1, to provide assistance to needy families so children may be cared for in their own homes or in the homes of relatives by providing educational and employment opportunities to increase the literacy level and effectiveness of a caregiver.

C. Eligibility for services is limited to needy families, that is, a family in which any member receives a Family Independence Temporary Assistance Program (FITAP) grant, Kinship Care Subsidy Program (KCSP) grant, Food Stamp benefits, Child Care Assistance Program (CCAP) services, Title IV-E, Medicaid, Louisiana Children's Health Insurance Program (LaChip) benefits, Supplemental Security Income (SSI), Free or Reduced Lunch, or who has earned income at or below 200 percent of the federal poverty level. A needy family consists of minor children, custodial parents, or caretaker relatives of minor children.

D. ...

AUTHORITY NOTE: Promulgated in accordance with 42 USC 601 et seq.; R.S. 46:231 and R.S. 36:474; Act 17, 2006 Reg. Session, Act 18, 2007 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 33:674 (April 2007), amended LR 33:2205 (October 2007), LR 34:

§5591. Jobs for America's Graduates Louisiana (JAGS-LA) Program

A. Effective July 1, 2007, the Office of Family Support shall enter into a Memorandum of Understanding with the Department of Education for the Jobs for America's Graduates Louisiana (JAGS-LA) Program to help keep in school those students at risk of failing in school, to capture out-of-school youth in need of a high school education, to provide an avenue for achieving academically, and to assist students in ultimately earning recognized credentials that will make it possible for them to exit school and enter post-secondary education and/or the workforce.

B. These services meet the TANF goal 3, to prevent and reduce the incidence of out-of-wedlock pregnancies by providing intervention and improved life prospects for students who show evidence of failing, dropping out or engaging in negative behaviors that can lead to dependency, out-of-wedlock births, imprisonment, etc.

C. Eligibility for services is not limited to needy families, however, eligible participants in the JAG-LA Program shall be 15 – 21 years of age and must face at least two designated barriers to success that include economic, academic, personal, environmental, or work related barriers. A family consists of a minor child residing with a custodial parent or caretaker relative of the minor child, and non-custodial parents.

D. ...

AUTHORITY NOTE: Promulgated in accordance with 42 USC 601 et seq.; R.S. 46:231 and R.S. 36:474; House Bill 1, 2007 Reg. Session Act 18, 2007 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 33:2468 (November 2007), amended LR 34:

Family Impact Statement

1. What effect will this Rule have on the stability of the family? This Rule will have no effect on the stability of the family as services provided to recipients will not change.

2. What effect will this Rule have on the authority and rights of persons regarding the education and supervision of their children? An effect on the authority and rights of persons regarding the education and supervision of their children is not foreseen at this time.

3. What effect will this Rule have on the functioning of the family? This Rule will have no effect on the functioning of the family.

4. What effect will this Rule have on family earnings and family budget? This Rule will have no effect on family earnings and family budget.

5. What effect will this Rule have on the behavior and personal responsibility of children? An effect on the behavior and personal responsibility of children is not foreseen at this time.

6. Is the family or local government able to perform the function as contained in this proposed Rule? No, this program is strictly an agency function.

All interested persons may submit written comments through February 28, 2008, to Adren O. Wilson, Assistant Secretary, Office of Family Support, P.O. Box 94065, Baton Rouge, LA, 70804-9065.

A public hearing on the proposed rule will be held on Thursday, February 28, 2008, at the Department of Social Services, Iberville Building, 627 North Fourth Street, Seminar Room 1-129, Baton Rouge, LA, beginning at 9 a.m. All interested persons will be afforded an opportunity to submit data, views, or arguments, orally or in writing, at said hearing. Individuals with disabilities who require special services should contact the Bureau of Appeals at least seven working days in advance of the hearing. For assistance, call Area Code (225) 342-4120 (Voice and TDD).

Ann Silverberg Williamson
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: TANF—Language Clarifications

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

This rule proposes to amend the Temporary Assistance for Needy Families (TANF) Initiatives so that the Louisiana Administrative Code corresponds with the Louisiana TANF State Plan to assure that the Agency is in compliance with both federal and state regulations. Changes include the addition of a definition of "family" for each TANF initiative, the addition of TANF goal numbers, and the addition of language to clarify existing TANF descriptions.

The only cost associated with this rule is \$160 for the cost of printing and rulemaking. The agency has sufficient funds to cover this cost. There are no other costs or savings because the amendments do not change the services provided to participants.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

This rule will have no effect on revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This rule will not result in any changes to the economic benefits participants are currently receiving through TANF Initiatives.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule should have no impact on competition and employment

Adren O. Wilson
Assistant Secretary
0801#061

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Emergency Cut-off Switches (LAC 76:XI.111)

The Wildlife and Fisheries Commission does hereby give notice of intent to enact Rules requiring the use of engine cut-off switches on Class A or Class One motorboat with a hand tiller outboard motor equipped with such devices.

Title 76

WILDLIFE AND FISHERIES

Part XI. Boating

Chapter 1. Vessel Equipment; Requirements; Penalties

§111. Emergency Cut-off Switches

A. In accordance with R.S. 34:851.24 and R.S. 34:851.27, the provisions of this act shall apply on all waters within the jurisdiction of this state.

B. Definitions

Engine Cut-off Switch—an operable emergency cut-off engine stop switch installed on a motorboat and that attaches to the motorboat operator by an engine cut-off switch link.

Engine Cut-off Switch Link—the lanyard and/or cut-off device used to attach the motorboat operator to the engine cut-off switch installed on the motorboat.

Hand Tiller Outboard Motor—an outboard motor that has a tiller or steering arm attached to the outboard motor to facilitate steering and does not have any mechanical assist device which is rigidly attached to the boat and used in steering the vessel, including but not limited to mechanical, hydraulic or electronic control systems. Hand tiller outboard motor shall not mean any type of electronic trolling motor.

C. No person shall operate a Class A or Class One motorboat with a hand tiller outboard motor designed to have or having an engine cut-off switch, while the engine is running and the motorboat is underway, unless:

1. the engine cut-off switch is fully functional and in operable condition; and

2. the engine cut-off switch link is attached to the operator, the operator's clothing, or if worn, the operator's personal flotation device.

D. The provisions of this Section shall not apply to licensed commercial fishermen operating a motorboat while engaged in a commercial fishing activity.

E. Violation of this Section is a class one violation as defined in R.S. 56:31.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:851.24 and R.S. 34:851.27.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 34:

Family Impact Statement

In accordance with Act #1183 of 1999, the Department of Wildlife and Fisheries/Wildlife and Fisheries Commission hereby issues its Family Impact Statement in connection with the preceding Notice of Intent: this Notice of Intent will have no impact on the six criteria set out at R.S. 49:972(B).

The Secretary of the Department of Wildlife and Fisheries is authorized to take any and all necessary steps on behalf of the commission to promulgate and effectuate this Notice of Intent and the final Rule, including, but not limited to, the filing of the Fiscal and Economic Impact Statements, the filing of the Notice of Intent and final Rule and the preparation of reports and correspondence to other agencies of government.

Interested persons may submit written comments on the proposed Rule to Lt. Col. Jeff Mayne, Enforcement Division, Department of Wildlife and Fisheries, Box 98000, Baton Rouge, LA 70898-9000 no later than 4:30 p.m., Thursday, March 6, 2008.

Earl P. King, Jr.
Chairman

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Emergency Cut-off Switches

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

No implementation costs or savings to state or local governmental units are anticipated. Implementation and enforcement of the proposed rule will be carried out using existing staff.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule is anticipated to have no effect on revenue collections of state and local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rule will directly affect motorboat operators who operate a Class A or Class One motorboat that is propelled by a hand-tiller outboard motor and is equipped with an emergency cut-off switch. Operators will be required to use their emergency cut-off devices while the engine is running and the motorboat is underway. No costs to directly affected persons or non-governmental groups are anticipated, since the boats are already equipped with emergency cut-off switches.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

No effects on competition or employment are anticipated.

Wynette Kees
Fiscal Officer
0801#036

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Flotation Devices (LAC 76:XI.103)

The Wildlife and Fisheries Commission does hereby give notice of intent to amend Rules governing the wearing of personal flotation devices being worn by persons aboard Class A motorboats propelled by a hand tiller outboard motor while underway.

The Secretary of the Department of Wildlife and Fisheries is authorized to take any and all necessary steps on behalf of the commission to promulgate and effectuate this Notice of Intent and the final Rule, including, but not limited to, the filing of the Fiscal and Economic Impact Statements, the filing of the Notice of Intent and final Rule and the preparation of reports and correspondence to other agencies of government.

Title 76

WILDLIFE AND FISHERIES

Part XI. Boating

Chapter 1. Vessel Equipment; Requirements; Penalties

§103. Flotation Devices

A. In accordance with R.S. 34:851.24(F)1, the provisions of this act shall apply on all waters within the jurisdiction of this state.

B. Definitions

Hand Tiller Outboard Motor—an outboard motor that has a tiller or steering arm attached to the outboard motor to facilitate steering and does not have any mechanical assist device which is rigidly attached to the boat and used in steering the vessel, including but not limited to mechanical, hydraulic, or electronic control systems. Hand tiller outboard motor shall not mean any type of electronic trolling motor.

Operate—to navigate or otherwise control the movement of a vessel, including controlling the vessel's propulsion system.

Operator—any person who navigates or is otherwise in control or in charge of the movement of a vessel, including the vessel's propulsion system.

Owner—a person, other than the lienholder, having the property in or registration to the vessel.

Personal Flotation Device or PFD—a device approved by the United States Coast Guard under 46 CFR Part 160, which is labeled with such approval and with the appropriate size for the person intended and which is in serviceable condition.

Readily Accessible—easily located and retrieved without searching, delay, hindrance or being in a locked area.

Serviceable Condition—a condition as defined by the United States Coast Guard under 33 CFR Part 175.23.

Trick Water-skier—a trick water-skier is a person whose equipment and activities have all of the following characteristics:

a. type of skis: for standard double trick skis, a length of no more than 46 inches and width of at least 8 inches, with no keels on the bottom; for single trick boards, a length of no more than 56 inches and width of at least 22 inches, with no keel on bottom; and

b. tow rope no longer than 50 feet.

Vessel—watercraft and airboats of every description, other than seaplane(s), located on the water and, used or capable of being used as a means of transportation on the water.

Watersports—activities that involve being towed by, or riding in the wake of, a vessel and include but are not limited to water skiing, wake boarding, wake surfing, and tubing.

C. Personal Flotation Device Requirements

1. Every operator of a vessel shall ensure that the vessel is carrying at least one readily accessible Type I, II, or III wearable personal flotation device for each person on board. In addition, vessels 16 feet or over in length shall carry at least one Type IV throwable personal flotation device.

2. A United States Coast Guard approved Type V PFD may be used in lieu of a Type I, II, or III PFD required by this Part provided:

a. the approval label on the Type V PFD indicates that the device is approved by the United States Coast Guard:

i. for the activity for which the vessel is being used; or

ii. as a substitute for a PFD of the type required by this act on the vessel in use; and

b. the PFD is used in accordance with any requirements of its approval label; and

c. the PFD is used in accordance with requirements in its owner's manual, if its approval label makes reference to such manual.

3. All persons onboard a Class A motorboat which is being propelled by a hand tiller outboard motor shall be required to wear a USCG approved Type I, II, III, or V personal flotation device while the motorboat is underway.

a. The operator shall be responsible to ensure all persons on board are in compliance with this Section. Violation of this Section is a class one violation as defined in R.S. 56:31.

4. Persons engaged in watersports shall wear a Type I, II, III or V PFD. No vessel operator shall tow a watersports participant who is not wearing such a device. No person shall use an inflatable PFD to meet the requirements of this Section. Exceptions to the requirements of this Subsection are allowed during Department of Wildlife and Fisheries and/or United States Coast Guard permitted marine events under the following conditions:

a. a skier engaged in barefoot water-skiing who wears a barefoot wetsuit designed specifically for such activity;

b. a skier engaged in trick water-skiing whose movements would be restricted or impeded by the bulk of a PFD;

c. the operator of a vessel towing a trick water-skier or barefoot water-skier shall make a PFD readily available aboard the tow vessel for each such skier who elects not to wear such a device while skiing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:851.24 and R.S. 34:851.27.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 11:705 (July 1985), amended LR 26:1493 (July 2000), LR 33:538 (March 2007), LR 34:

Family Impact Statement

In accordance with Act #1183 of 1999, the Department of Wildlife and Fisheries/Wildlife and Fisheries Commission hereby issues its Family Impact Statement in connection with the preceding Notice of Intent: this Notice of Intent will have no impact on the six criteria set out at R.S. 49:972(B).

Interested persons may submit written comments on the proposed Rule to Lt. Col. Jeff Mayne, Enforcement Division, Department of Wildlife and Fisheries, Box 98000, Baton Rouge, LA 70898-9000 no later than 4:30 p.m., Thursday, March 6, 2008.

Earl P. King, Jr.

Chairman

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Flotation Devices

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

No implementation costs or savings to state or local governmental units are anticipated. Implementation and enforcement of the proposed rule will be carried out using existing staff.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule is anticipated to have no effect on revenue collections of state and local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rule amendment will directly affect motorboat operators and passengers aboard vessels that are propelled by a hand-tiller outboard motor. They will be required to wear personal flotation devices while the boat is underway. No costs to directly affected persons or non-governmental groups is anticipated, since R.S. 34:851.24(F)1 requires that at least one life preserver be accessible for each person on board.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

No effects on competition or employment are anticipated.

Wynnette Kees
Fiscal Officer
0801#034

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Gill Net and Grass Carp Prohibitions
(LAC 76:VII.112)

The Wildlife and Fisheries Commission hereby advertises its intent to prohibit the take of grass carp and prohibit the use and possession of gill and trammel nets in designated areas stocked with triploid grass carp.

**Title 76
WILDLIFE AND FISHERIES**

Part VII. Fish and Other Aquatic Life

Chapter 1. Freshwater Sports and Commercial Fishing

§112. Prohibit the Use and Possession of Gill Nets and Trammel Nets; Prohibit the Taking of Grass Carp

A. No person shall use or possess any gill net or trammel net in the areas designated below as restricted areas. No person shall take or sell any fish taken with the prohibited gear. Additionally, no person shall take or possess any grass carp within the restricted areas.

1. Restricted areas:
 - a. Spring Bayou Wildlife Management Area (WMA), Avoyelles Parish;
 - b. Old River, Avoyelles Parish;
 - c. Little River, Avoyelles Parish.

B. Violation of the provisions of this Section constitutes a class two violation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:21, R.S. 56:22.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 34:

Family Impact Statement

In accordance with Act #1183 of 1999, the Department of Wildlife and Fisheries/Wildlife and Fisheries Commission hereby issues its Family Impact Statement in connection with the preceding Notice of Intent: this Notice of Intent will have no impact on the six criteria set out at R.S. 49:972(B).

The Secretary of the Department of Wildlife and Fisheries is authorized to take any and all necessary steps on behalf of the commission to promulgate and effectuate this Notice of Intent and the final Rule, including, but not limited to, the filing of the Fiscal and Economic Impact Statements, the filing of the Notice of Intent and final Rule and the preparation of reports and correspondence to other agencies of government.

Interested persons may submit written comments on the proposed Rule to Mr. Gary Tilyou, Inland Fisheries Division, Department of Wildlife and Fisheries, Box 98000, Baton Rouge, LA 70898-9000 no later than 4:30 p.m., Thursday, March 6, 2008.

Earl P. King, Jr.
Chairman

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Gill Net and Grass Carp Prohibitions**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

No implementation costs or savings to state or local governmental units are anticipated. Implementation and enforcement of the proposed rule will be carried out using existing staff.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule is anticipated to have little or no effect on revenue collections of state and local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rule is anticipated to directly benefit fishers who fish in the Spring Bayou Complex. Due to the large infestation of nuisance aquatic plants in the area, the numbers of fishers and amount of fish harvested have declined significantly in the past several years. With the stocking of triploid grass carp in the Spring Bayou Complex, it is anticipated that the nuisance aquatic plant population will come under control and fishing will improve over time.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

No effects on competition or employment are anticipated.

Wynnette Kees
Fiscal Officer
0801#038

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Wildlife and Fisheries
Wildlife and Fisheries Commission**

Marine Event Permits (LAC 76:XI.305)

The Wildlife and Fisheries Commission does hereby give notice of intent to enact Rules governing the permitting of marine events on the navigable waterways within the jurisdiction of the state of Louisiana.

The Secretary of the Department of Wildlife and Fisheries is authorized to take any and all necessary steps on behalf of the commission to promulgate and effectuate this Notice of Intent and the final Rule, including, but not limited to, the filing of the Fiscal and Economic Impact Statements, the filing of the Notice of Intent and final Rule and the preparation of reports and correspondence to other agencies of government.

**Title 76
WILDLIFE AND FISHERIES
Part XI. Boating**

**Chapter 3. Boating Safety
§305. Marine Event Permits**

A. The following regulations shall prescribe the permitting requirements for marine events on the navigable waterways within the jurisdiction of this state so as insure the safety of life. Through Memorandum of Understanding between the United States Coast Guard and the Louisiana Department of Wildlife and Fisheries and authority vested in the commission, the Department of Wildlife and Fisheries has the responsibility to permit and regulate marine events on navigable waters over which the state has jurisdiction.

B. Definitions

Marine Event or *Events*—an organized event of limited duration held on the water, including but not limited to regattas, parades, fireworks displays, and boat races, which by its nature, circumstances or location, will introduce extra or unusual hazards to the safety of lives on the navigable waters within the jurisdiction of the state of Louisiana.

a. Examples of conditions which are deemed to introduce extra or unusual hazards to the safety of life include but are not limited to:

- i. an inherently hazardous competition;
- ii. an event occurring in an area where there is a customary presence of pleasure craft;
- iii. any obstruction of navigable channel which may reasonably be expected to result; and

iv. the expected accumulation of spectator craft.

C. An individual or organization planning to hold a marine event, shall submit an application to the LDWF.

1. The application shall be submitted 30 days prior to the proposed event.

2. The application shall include the following details:

a. name and address of sponsoring person or organization;

b. name, address, and telephone of person in charge of the event;

c. nature and purpose of the event;

d. information as to general public interest;

e. estimated number and types of watercraft participating in the event;

f. estimated number and types of spectator watercraft;

g. number of boats being furnished by sponsoring organizations to patrol event;

h. a time schedule and description of events; and

i. a section of a chart or scale drawing showing the boundaries of the event, various water courses, or areas to be utilized by participants, officials, and spectator craft.

D. The department's law enforcement division may issue regulations to promote safety of life on waters before, during, and after a marine event. The department's law enforcement division can limit, exclude or restrict movement of vessel traffic before, during, and after a marine event and may assign patrol boats, if safety requires, to enforce regulations and provide assistance work.

E. Violation of this section is a class one violation as provided in R.S. 56:31. The department is authorized to prohibit, suspend or terminate any marine event in order to protect life, public safety or for failure to secure a marine event permit.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:851.24 and R.S. 34:851.27.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 34:

Family Impact Statement

In accordance with Act #1183 of 1999, the Department of Wildlife and Fisheries/Wildlife and Fisheries Commission hereby issues its Family Impact Statement in connection with the preceding Notice of Intent: this Notice of Intent will have no impact on the six criteria set out at R.S. 49:972(B).

Interested persons may submit written comments on the proposed Rule to Lt. Col. Jeff Mayne, Enforcement Division, Department of Wildlife and Fisheries, Box 98000, Baton Rouge, LA 70898-9000 no later than 4:30 p.m., Thursday, March 6, 2008.

Earl P. King, Jr.
Chairman

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Marine Event Permits

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

No implementation costs or savings to state or local governmental units are anticipated. Implementation and enforcement of the proposed rule will be carried out using existing staff.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule is anticipated to have no effect on revenue collections of state and local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Sponsors of marine events on navigable waterways in Louisiana will be impacted. The Department of Wildlife and Fisheries is authorized to prohibit, suspend or terminate any marine event in order to protect life, public safety or failure to secure a marine event permit.

The Enforcement Division has for years issued marine event permits and operating requirements so as to insure safety at these events. However, no rule has ever been published in Title 76 that establishes marine event permit requirements and regulations. The permit is free, thus, no costs to directly affected persons or non-governmental groups will be incurred. A slight increase in paperwork may be incurred by persons or non-governmental groups who wish to hold a marine event on navigable waterways in Louisiana.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

No effects on competition or employment are anticipated.

Wynnette Kees
Fiscal Officer
0801#037

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Vessel Monitoring System Requirements (LAC 76:VII.369, 371, and 515)

The Wildlife and Fisheries Commission does hereby give notice of intent to enact Rules governing the use of Vessel Monitoring Systems (VMS) for Out-of-State Landing Program for Oysters, VMS requirements as provided for in Title 56 and closed season shrimp penalty provisions in R.S. 56:495.1 and 56:497.1 provides for consolidation of VMS regulations.

The Secretary of the Department of Wildlife and Fisheries is authorized to take any and all necessary steps on behalf of the commission to promulgate and effectuate this Notice of Intent and the final Rule, including, but not limited to, the filing of the Fiscal and Economic Impact Statements, the filing of the Notice of Intent and final Rule and the preparation of reports and correspondence to other agencies of government.

Title 76

WILDLIFE AND FISHERIES

Part VII. Fish and Other Aquatic Life

Chapter 3. Saltwater Sport and Commercial Fishing

§369. Shrimping Closed Season, Vessel Monitoring System

A. Purpose. To maximize voluntary compliance with shrimping regulations and to reduce purposeful shrimping violations by providing adequate deterrence thereby reducing recidivism.

B. Persons who are required to be monitored:

1. any person subject to a court order requiring monitoring;

2. any person having two or more convictions during the preceding five year period for harvesting shrimp during closed season.

C. Persons required to be monitored shall not be present on board any vessel harvesting or possessing shrimp, or which has any trawl, skimmer, or butterfly net on board, unless that vessel is equipped with and is using and employing an approved, fully functional and operating vessel monitoring system (VMS) as required by R.S. 56:495.1 and R.S. 56:497.1 and these regulations.

D. Required monitoring periods:

1. persons who are subject to a court order requiring that they be monitored shall be monitored and who do not have two or more convictions during the preceding five year period for harvesting shrimp during closed season for the period specified by the order of the court;

2. persons who have had two convictions during the preceding five year period for harvesting shrimp during closed season shall be monitored for a period of three years from the date of the most recent conviction;

3. persons who have had three or more convictions during the preceding five year period for harvesting shrimp during closed season shall be monitored for a period of ten years from the date of the most recent conviction.

E. The VMS unit must be approved and certified, must be installed onboard the vessel, and must be fully operational. The department must first be notified of the installation, before a person who is required to be monitored may be present onboard the vessel. If a person who is required to be monitored is found to be on any vessel-harvesting shrimp or possessing shrimp, or possessing any trawl, skimmer, or butterfly net without an approved VMS device being on board and operating, the person who is required to be monitored shall be in violation of VMS shrimping requirements and shall be guilty of a class four violation pursuant to R.S. 56:497.1.C and R.S. 56:34. Each license issued to a person who is required to be on a VMS monitored vessel shall indicate that the licensee may only be present on a VMS monitored vessel.

F. Persons who are required to be monitored shall be responsible for the VMS Requirements as specified in LAC 76:VII.371.

G. Violation. Failure to abide by any regulation set forth regarding the use or operation of VMS, or failure to have VMS when required shall be a violation of R.S. 56:497.1.C and requirements of probation where applicable. All shrimp taken or possessed by a person in violation of these rules, and who is identified on his commercial license as required to be VMS monitored, shall be deemed illegally taken and possessed. The provisions of this Section do not exempt any person from any other laws, rules, regulation, and license requirements for this or other jurisdictions. Violations of this Section shall constitute a class 4 violation.

H. All costs and monthly fees associated with the installation, operation and monitoring of any VMS system in accordance with these rules shall be the responsibility of the person required to be monitored and shall be paid by him directly to the approved VMS supplier and monitoring facilitator.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:495.1, and R.S. 56:497.1.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 32:1255 (July 2006), amended LR 34:

§371. Vessel Monitoring System (VMS) Requirements

A. The following provisions regarding VMS shall be applicable to all provisions of law requiring the use of VMS:

1. the vessel must have onboard a fully operational and approved VMS Device. Approved devices are those devices approved by NOAA Fisheries Service or the Secretary of the Louisiana Department of Wildlife and Fisheries (LDWF) for fisheries in the Gulf of Mexico Reef Fish fishery and which meet the minimum performance criteria specified in Paragraph 2 of this Subsection. In the event that a VMS device is removed from the list of approved devices, vessel owners who installed an approved VMS prior to approval of any revised list will be considered in compliance with requirements of this Paragraph, unless otherwise notified by the LDWF;

2. minimum VMS performance criteria: Basic required features of the VMS are as follows:

a. the VMS shall be satellite-based and tamper proof, i.e., shall not permit the input of false positions; furthermore, satellite selection must be automatic to provide an optimal fix and shall not be capable of being manually overridden;

b. the VMS shall be fully automatic and operational at all times, regardless of weather and environmental conditions;

c. the VMS shall be fully operable and capable of tracking the vessel in all of Louisiana coastal waters and throughout the Gulf of Mexico;

d. the VMS shall be capable of transmitting and storing information including vessel identification, date, time and latitude/longitude;

e. the VMS unit shall make all required transmissions to a designated and approved VMS vendor who shall be responsible for monitoring the vessel and reporting information to the LDWF;

f. the VMS shall provide accurate position transmissions every half-hour, except for those vessels operating solely under the Out-of-State Landing Permit mentioned in Paragraph 3 that require accurate position transmissions every hour, every day of the year, during required monitoring period. In addition, the VMS shall allow polling of individual vessels or any set of vessels at any time and permit those monitoring the vessel to receive position reports in real time. For the purposes of this specification, real time shall constitute data that reflect a delay of 15 minutes or less between the displayed information and the vessel's actual position;

g. the VMS vendor shall be capable of transmitting position data to a LDWF designated computer system via a modem at a minimum speed of 9600 baud. Transmission shall be in a file format acceptable to the LDWF. Such transmission must be made at any time upon demand of the LDWF;

h. the VMS vendor shall be capable of archiving vessel position histories for a minimum of three months, as transmitted by the VMS unit, and provide transmissions to the LDWF of specified portions of archived data in response to LDWF requests in a variety of media (tape, compact disc, etc.) as specified by the LDWF.

3. Operating Requirements. Except as provided in Paragraph 4 (Power Down Exemption) of this Subsection, or unless otherwise required by law, all required VMS units must transmit a signal indicating the vessel's accurate position at least every half hour, 24 hours a day, throughout the year. However, those vessels operating solely under the Out-of-State Landing Permit shall transmit a signal indicating the vessel's accurate position at least every hour, 24 hours a day throughout the year.

4. Power Down Exemption. Any vessel required to have on board a fully operational VMS unit at all times, as specified in Paragraph 3 of this Subsection, is exempt from this requirement provided:

a. the vessel will be continuously out of the water for more than 72 consecutive hours; and

b. a valid letter of exemption obtained pursuant to Subparagraph 5.a of this Subsection has been issued to the vessel and is on board the vessel and the vessel is in compliance with all conditions and requirements of said letter.

5. Letter of Exemption

a. Application. A vessel owner may apply for a letter of exemption from the operating requirements specified in Paragraph 3 of this Subsection for his/her vessel by sending a written request to the LDWF and providing the following: Sufficient information to determine that the vessel will be out of the water for more than 72 continuous hours; the location of the vessel during the time an exemption is sought; and the exact time period for which an exemption is needed (i.e., the time the VMS will be turned off and turned on again).

b. Issuance. Upon receipt of an application, the LDWF may issue a letter of exemption to the vessel if it is determined that the vessel owner provided sufficient information as required under Subparagraph 5.a of this Subsection and that the issuance of the letter of exemption will not jeopardize accurate monitoring of the vessel's position. Upon written request, the LDWF may change the time period for which the exemption was granted.

6. Presumption. If a VMS unit fails to transmit the required signal of a vessel's position, the vessel shall be deemed to have incurred a VMS violation, for as long as the unit fails to transmit a signal, unless a preponderance of evidence shows that the failure to transmit was due to an unavoidable malfunction, or disruption of the transmission that occurred while the vessel was declared out of the fishery, as applicable, or was not at sea.

7. Replacement. Should a VMS unit require replacement, a vessel owner must submit documentation to the LDWF Law Enforcement Division Headquarters VMS coordinator, within 3 days of installation and prior to the vessel's next trip, verifying that the new VMS unit is an operational, approved system as described in this section.

8. Access. All vessel owners shall allow the LDWF, and their authorized wildlife enforcement agents or designees access to the vessel's VMS unit and data, if applicable, and location data obtained from its VMS unit, if required, at the time of or after its transmission to the vendor or receiver, as the case may be.

9. Tampering. Tampering with a VMS, a VMS unit, or a VMS signal, is prohibited. Tampering includes any activity

that is likely to affect the unit's ability to operate properly, signal, or accuracy compute the vessel's position fix.

10. Violation. Failure to abide by any regulation set forth regarding the use or operation of VMS, or failure to have VMS when required shall be a violation of the Louisiana Revised Statutes which mandates VMS and requirements of probation where applicable. All fish taken or possessed by a person in violation of these rules, and who is identified on his commercial license or permit as required to be VMS monitored, shall be deemed illegally taken and possessed. The provisions of this Section do not exempt any person from any other laws, rules, regulation, and license requirements for this or other jurisdictions. Violations of this Section shall constitute a violation of the Section of law requiring the use of VMS.

11. All costs and monthly fees associated with the installation, operation and monitoring of any VMS system in accordance with these rules shall be the responsibility of the person required to be monitored and shall be paid by him directly to the approved VMS supplier and monitoring facilitator.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:424, 56:424.1, R.S. 56:495.1, and R.S. 56:497.1.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 34:

Chapter 5. Oysters

§515. Oyster Lessee Out-of-State Landing Program

A. Policy. The oyster lessee out-of-state landing permit is intended for the benefit of an oyster leaseholder, or his duly authorized designee, who desires to land oysters, from privately leased water bottoms only, outside the state of Louisiana, and to provide an effective method of regulating the transportation of oysters landed or off-loaded from a vessel outside of Louisiana. It is for use by Louisiana licensed oyster fishermen. Violation of any provision of the rules, regulations or statutes concerning the oyster out-of-state landing permit by the permittee, oyster harvester or vessel owner while operating under the permit shall result in the suspension and/or revocation of the permit in addition to any citations resulting from activities. The permit shall be valid for up to one calendar year beginning on January 1 and ending on December 31 of the same year. The cost per permit shall be \$100.

B. Permit Application and Procedures

1. Applications shall be available from the Louisiana Department of Wildlife and Fisheries (LDWF) licensing office in Baton Rouge at any time during regular business hours. Completed applications, along with required documentation, will be accepted only by appointment at the LDWF Marine Fisheries Division in Baton Rouge. Applications shall only be accepted from the oyster leaseholder, or harvester operating on the leaseholder's behalf. All required information shall be provided before a permit is issued.

2. Applications shall include the following information:

a. applicant information including name, address, telephone number, social security number, and driver's license number. If applicable, commercial license numbers (vessel, oyster harvester, commercial fisherman) and vessel registration or U.S. Coast Guard (USCG) documentation;

b. leaseholder information including name, address, and leaseholder account identification number:

i. if name of leaseholder is a corporation, partnership, or other legal entity, the Louisiana Secretary of State Charter/Organization number must be provided;

ii. if the name of the leaseholder is different than the applicant, the applicant must provide valid permission from the leaseholder (also refer to Subparagraph B.2.i below);

c. harvester information including name, address, telephone number, social security number, and driver's license number. If applicable, commercial license numbers (vessel, oyster harvester, commercial fisherman) may be required;

d. vessel owner information including name, address, telephone number, social security number, and driver's license number. If applicable, commercial license numbers (vessel, oyster harvester, commercial fisherman) may be required;

e. vessel information including name of vessel, vessel license number, USCG vessel documentation number, and/or vessel registration number, if applicable;

f. lease number(s) to be fished, and leaseholder name and identification number for each lease, while operating under the permit;

g. copies of vessel registration certificate(s) or U.S. Coast Guard vessel documentation certificate;

h. proof of lease ownership by supplying copies of certified lease plats and/or documents:

i. corporation—if lessee name on plat is a corporation, provide the Louisiana Secretary of State Charter/ Organization number. The applicant must be a registered director or agent of the corporation. If the applicant has been given permission to fish the lease(s) by the corporation, please refer to Subparagraph B.2.i below;

ii. power of attorney—if lease(s) listed on the application are not listed under the applicant's account, the applicant shall provide documentation of power of attorney for the estate of the leaseholder. If the applicant has been given permission to fish the lease(s) by the estate of the leaseholder, please refer to Subparagraph B.2.i below;

i. written, signed, notarized, and dated permission from the leaseholder to fish the lease(s), if applicable.

i. corporation—the person granting permission must be a registered director or agent of the corporation which owns the lease(s) listed on the application.

ii. power of attorney—the person granting permission must provide documentation of power of attorney for the estate of the leaseholder which owns the lease(s) listed on the application.

C. Operations. Permits are non-transferable and only the vessel listed on the permit can be used with the permit and only one vessel is allowed per permit. The vessel must maintain the original permit on board at all times while operating under the permit, including during times of fishing and transportation. Valid permission from the leaseholder must be present on the permitted vessel while operating under the permit. The complete original permit must be surrendered to the department in the event the permittee

chooses to have the permit modified. Any change in leases fished shall require the permittee to submit a new application at no additional expense prior to fishing different leases. Any change in vessel shall require the permittee to submit a new application and permit fee. At no time while operating under the permit and transporting oysters out-of-state shall the permittee have on board the permitted vessel oysters taken from non-leased water bottoms of the state or from oyster leases not listed on the original permit. The permitted vessel shall display signs, visible from either side of the vessel and from the air, with the words "Oyster Permit" and the permit number shall be placed on these signs in letters at least 12 inches high.

D. Records, Reporting, and Severance Tax. The permittee shall maintain an up-to-date daily record of the number of sacks of oysters landed under the permit on forms provided by the department for that purpose. The permittee shall submit to the department a monthly record of the number of sacks of oysters landed under the permit and the name and Food and Drug Administration interstate certified shellfish shipper's number of the business to whom the oysters were sold no later than 15 days following the last day of the month on forms provided by the department for that purpose, even if no landings occurred. Failure to submit monthly records or incomplete records to the department before the reporting deadline shall result in suspension or revocation of the permit, at the discretion of the department. Payment of severance tax owed, as outlined in Louisiana R.S. 56:446(A) must accompany the monthly report.

E. Monitoring. The vessel utilized under this permit shall have on-board and in working order an electronic vessel monitoring system as required by R.S. 56:424, as provided herein. Oyster vessels, the owner or operator of any vessel issued an oyster lessee out-of-state landing permit or a vessel that landed oysters from a private lease in Louisiana waters, at a location outside of Louisiana, or intends to land, or lands oysters out of state, must have an operable vessel monitoring system (VMS) unit installed on board that meets the requirements of LAC 76:VII.371. The VMS unit must be certified, installed on board and operable, and the department notified of the installation, before the vessel may begin dredging or transporting oysters.

F. Violation. Failure to abide by any regulation set forth regarding the use or operation of VMS, or failure to have VMS when required shall be considered a violation of the Section of law requiring the use of VMS and requirements of probation where applicable. All fish taken or possessed by a person in violation of these rules shall be deemed illegally taken and possessed. The provisions of this Section do not exempt any person from any other laws, rules, regulation, and license requirements for this or other jurisdictions. Violations of this Section shall constitute a class 2 violation. As a condition maintaining and operating under this permit, persons shall comply with the VMS provisions regardless of the vessels location, failure to comply with VMS rules and regulations, the department shall revoke and not reinstate the Out-of-State Landing Permit for that vessel and person for the period in which it was issued.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56.6(10), R.S. 56:422, R.S. 56:424(B, G), and R.S. 56:425.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Office of Fisheries, LR 22:120 (February 1996), amended by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 31:1624 (July 2005), LR 34:

Family Impact Statement

In accordance with Act #1183 of 1999, the Department of Wildlife and Fisheries/Wildlife and Fisheries Commission hereby issues its Family Impact Statement in connection with the preceding Notice of Intent: this Notice of Intent will have no impact on the six criteria set out at R.S. 49:972(B).

Interested persons may submit written comments on the proposed Rule to Lt. Col. Jeff Mayne, Enforcement Division, Department of Wildlife and Fisheries, Box 98000, Baton Rouge, LA 70898-9000 no later than 4:30 p.m., Thursday, March 6, 2008.

Earl P. King, Jr.
Chairman

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Vessel Monitoring System Requirements**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)
No implementation costs or savings to state or local governmental units are anticipated.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
No effects on revenue collections of state or local governmental units are anticipated.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
No costs or economic benefits to directly affected persons or non-governmental groups are anticipated.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
No effects on competition or employment are anticipated.

Wynnette Kees
Fiscal Officer
0801#035

Robert E. Hosse
Staff Director
Legislative Fiscal Office

Governor's Reports

GOVERNOR'S REPORT

Governor's Letter to Chair of House Committee on Health and Welfare

Emergency Rule—Pain Management Clinics
Licensing Standards
(LAC 48:I.Chapter 78)

December 21, 2007

The Honorable Sydnie Mae Durand
Chair, House Committee on Health and Welfare
State Capitol
Baton Rouge, LA 70802

Dear Chairwoman Durand:

On December 13, 2007, we received from your office a report of the House Committee on Health and Welfare concerning its meeting to review rules proposed by the Louisiana Department of Health and Hospitals establishing Pain Management Clinics Licensing Standards.

Your letter advised that the Committee found the requirement "that a pain specialist be on-site at a pain management clinic open on or prior to June 15, 2005, is overly burdensome" and voted to find the entirety of the rules unacceptable.

From the enclosed letter by Secretary Roxane Townsend, M.D., written following the Committee hearing and meetings with representatives of affected clinics, Department staff and others affected, and from further communication with her and representatives of the clinics, the clinics have advised that they have withdrawn their opposition to these rules with the understanding that the Department will proceed immediately with emergency rules regarding the pre-June 15, 2005, clinics. This action will properly address the concerns by your committee.

Without this compromise and my finding the Committee's actions unacceptable, the primary intent of Act 488 of 2005 of preventing the spread of clinics operated by non-physicians without risk management and compliance programs or other safeguards would not be implemented.

For these reasons, I have decided to disapprove the action of the Committee on these rules.

Kathleen Babineaux Blanco
Governor

0801#067

GOVERNOR'S REPORT

Governor's Letter to Chair of Senate Committee on Health and Welfare

Emergency Rule—Pain Management Clinics
Licensing Standards
(LAC 48:I.Chapter 78)

December 28, 2007

The Honorable Joe McPherson
Chair, Senate Committee on Health and Welfare
State Capitol
Baton Rouge, LA 70802

Dear Chairman McPherson:

On December 13, 2007, we received from your office a report of the Senate Committee on Health and Welfare concerning its meeting to review rules proposed by the Louisiana Department of Health and Hospitals establishing Pain Management Clinics Licensing Standards.

Your letter advised that the Committee viewed the proposed rules and voted unanimously to find the entirety of the rules unacceptable.

From the enclosed letter by Secretary Roxane Townsend, M.D., written following the Committee hearing and meetings with representatives of affected clinics, Department staff and others affected, and from further communication with her and representatives of the clinics, the clinics have advised that they have withdrawn their opposition to these rules with the understanding that the Department will proceed immediately with emergency rules regarding the pre-June 15, 2005, clinics. This action will properly address the concerns by your committee.

Without this compromise and my finding the Committee's actions unacceptable, the primary intent of Act 488 of 2005 of preventing the spread of clinics operated by non-physicians without risk management and compliance programs or other safeguards would not be implemented.

For these reasons, and as I have already acted regarding the House Committee's similar action, I now disapprove the action of the Senate Committee on these rules.

Kathleen Babineaux Blanco
Governor

0801#066

Administrative Code Update

CUMULATIVE: JANUARY – DECEMBER 2007

LAC Title	Part.Section	Effect	Location LR 33 Month Page	LAC Title	Part.Section	Effect	Location LR 33 Month Page									
4	V.Chapter 15 IX.303	Amended	July 1314	28	LXXXIII.4302	Adopted	Apr. 634									
		Amended	May 844			LXXXIII.4302, 4313	Amended	Aug. 1611								
7	V.Chapter 23 XIII.105, 207 XIII.Chapter 3 XIII.Chapter 3 XV.132 XXIII.143 XXV.101,105 XXIX.102, 117 XXIX.123 XXXV.501,503,505 XXXV.511 XXXV.511 XXXIX.1111,1113	Adopted	Mar. 422	LXXXIII.4310,4311,4315,4503	Amended	Apr. 634										
		Amended	Aug. 1609	LXXXIII.4903,4905	Repealed	July 1334										
		Adopted	June 990	XCVII.905	Amended	Mar. 434										
		Adopted	Dec. 2592	CXI.105-109,305-311,312	Amended	Feb. 255										
		Adopted	Jan. 34	CXI.111,1801,2303-2323	Adopted	Feb. 255										
		Amended	Sept. 1855	CXI.305,1901	Amended	Mar. 424										
		Amended	Jan. 39	CXI.305, 2015, 2017-2029, 3507	Amended	Oct. 2032										
		Amended	Sept. 1854	CXI.313-315,501,511,2301	Amended	Feb. 255										
		Repealed	Sept. 1854	CXI.1701,2001	Amended	Feb. 265										
		Adopted	Jan. 34	CXI.1703-1717,2003-2027	Adopted	Feb. 265										
		Adopted	Jan. 37	CXI.1709-1719	Adopted	June 991										
		Amended	Nov. 2348	CXI.1721-1729	Repromulgated	June 991										
		Adopted	Feb. 249	CXI.1903-1917	Adopted	Mar. 424										
10	III.1101, 1103 IX.Chapter 5 XI.301 XV.503 XVII.301	Adopted	Aug. 1628	CXI.2007	Amended	Nov. 2350										
		Adopted	Aug. 1629	CXI.2012-2014, 2016	Adopted	Oct. 2032										
		Repealed	Dec. 2651	CXI.2701,3305,3307,3501	Amended	Feb. 255										
		Repealed	Dec. 2651	CXI.3306,3307	Amended	June 991										
		Repealed	Dec. 2651	CXI.3306,3509	Adopted	Feb. 255										
		Repealed	Dec. 2651	CXV.337,1121	Amended	Mar. 429										
		13	III.303,311 III.Chapter 17	Adopted	Jan. 44	CXV.349	Adopted	Aug. 1613								
				Adopted	Jan. 41	CXV.501	Amended	Mar. 431								
				16	III.701	Adopted	Mar. 466	CXV.503, 505, 1107, 1109, 2305	Amended	Nov. 2352						
						19	II.105-115	Adopted	Oct. 2030	CXV.1103, 2323	Amended	Nov. 2351				
								22	I.313 I.340 I.1101 I.Chapter 13 III.4771	Amended	May 851	CXV.1145	Adopted	Dec. 2606		
										Adopted	Apr. 665	CXV.2301,2319,2321,2357,2363	Amended	Mar. 429		
										Adopted	May 855	CXV.2313, 2319, 2355	Amended	Nov. 2352		
Adopted	Apr. 666									CXV.2319	Amended	Mar. 432				
Amended	Aug. 1627									CXV.2319,2341,2353,2361,2363	Amended	Dec. 2601				
25	XI.Chapter 5									Adopted	Feb. 249	CXV.2319,2373,2377,2381	Amended	Oct. 2050		
										28	III.Chapters 1-21 IV.101,301,503 IV.301,703,803 IV.301,1103 IV.301,1903 IV.505 IV.505, 507, 703 IV.703,705,803,805 IV.Chapter 12 IV.1301,2103,2105,2109,2303 IV.Chapter 14 V.101,103 V.101,105,113 V.221 VI.107,301,309,311 VI.315 VII.101,103,113 VII.101,105,113 XXXIII.301,303,319,503,723 XXXIII.507, 701 XXXIII.2001 XXXIX.101, 103, 501-505, 707 XXXIX.901, 905-911, 1101, 1301 XXXIX.1501 XLI.1301 XLV.205,207 LXXIX.2301 LXXXIII.301,517,613,707,709 LXXXIII.301,603,708 LXXXIII.301, 1101, 1403, 1405 LXXXIII.307,409,515,703-707 LXXXIII.603, 613, 4313 LXXXIII.903,1301,1901,2101 LXXXIII.1301,4313 LXXXIII.1407 LXXXIII.1601-1609 LXXXIII.2301,2401,2501-2505 LXXXIII.2701-2721,3301-3303 LXXXIII.3503,3507,3701,3905 LXXXIII.3905,4001,4527	Adopted	Sept. 1856	CXV.2375,2381,2383,2387	Amended	Aug. 1614
												Amended	Mar. 439	CXV.2395	Amended	Oct. 2051
												Amended	Dec. 2612	CXXXI.219,221,223	Amended	Mar. 432
		Amended	Jan. 86									CXXXI.225,231	Amended	May 821		
		Amended	July 1339									CXXXI.240	Adopted	May 817		
		Amended	Jan. 83	CXXXI.241	Amended							Nov. 2355				
		Amended	Nov. 2357	CXXXI.305,309	Amended	Mar. 433										
		Amended	Mar. 435	CXXXI.311	Amended	Aug. 1618										
		Adopted	Dec. 2614	CXXXI.314	Adopted	July 1338										
		Amended	Mar. 439	CXXXI.325	Amended	Nov. 2354										
		Adopted	Dec. 2609	CXXXI.403	Amended	Feb. 280										
		Amended	Mar. 435	CXXXI.407,409	Amended	Aug. 1616										
Amended	Dec. 2608	CXXXI.408	Adopted	Aug. 1616												
Amended	July 1338	CXXXI.408	Adopted	Feb. 281												
Amended	Mar. 443	CXXXI.410	Repromulgated	Aug. 1616												
Amended	Nov. 2359	CXXXI.507	Amended	Nov. 2356												
Amended	Mar. 444	CXXXI.659	Amended	Aug. 1617												
Amended	Dec. 2618	CXXXI.673	Amended	Aug. 1618												
Amended	Apr. 636	CXXXI.703,705,707	Amended	May 817												
Amended	Oct. 2066	CXXXI.Chapters 11,12,13,14	Adopted	Oct. 2053												
Adopted	Apr. 636	CXXXV.101-127	Adopted	Oct. 2044												
Amended	Oct. 2061	CXXXIII.Chapters 1-31	Adopted	Jan. 44												
Amended	Oct. 2061	CXXXVII.Chapters 1-5	Adopted	July 1334												
Adopted	Mar. 434	31	I.Chapter 5 I.Chapter 7	Adopted	Sept. 1881											
Amended	Dec. 2607			Adopted	Sept. 1880											
Amended	May 817			32	III.701 III.701 V.701 V.701 IX.701 IX.701	Amended	Apr. 644									
Amended	Dec. 2593					Amended	June 1122									
Amended	Mar. 423					Amended	Apr. 644									
Amended	Nov. 2348					Amended	June 1122									
Amended	Feb. 252					Amended	Apr. 644									
Amended	Oct. 2031					Amended	June 1122									
Amended	Dec. 2593					33	I,III,V,VI,VII,IX,XI,XV I.Chapter 12 I.1501,1503,1505 I.Chapter 18 I.2001,2305 I.3905,3919,3925,3931 I.3931 III.211,223,551,5101-5111,5112	Amended	Oct. 2077							
Amended	July 1334							Adopted	Mar. 447							
Repealed	Nov. 2348							Amended	July 1341							
Adopted	Dec. 2593							Adopted	June 1013							
Amended	Dec. 2593							Amended	Jan. 88							
Amended	Dec. 2593	Amended	Dec. 2627													
Amended	Dec. 2593	Amended	Apr. 640													
Amended	Feb. 252	Amended	Dec. 2619													

LAC Title	Part.Section	Effect	Location		LAC Title	Part.Section	Effect	Location		
			LR 33	Month Page				LR 33	Month Page	
33	III.501,3003,5122	Amended	Dec.	2626	40	I.Chapters 61,63,65,66	Amended	Apr.	652	
	III.506	Amended	Aug.	1621		IV.Chapter 5	Adopted	Dec.	2663	
	III.507	Amended	Dec.	2629		IX.Chapter 7	Adopted	Dec.	2664	
	III.507, 2160, 3003	Amended	Aug.	1619	42	VII.2325,2927	Amended	May	856	
	III.510	Repealed	Oct.	2067		VII.4203	Amended	Mar.	488	
	III.603,605,607,613,615	Amended	Oct.	2067		VII.4204	Amended	Nov.	2462	
	III.Chapter 13	Adopted	May	821		IX.2919,4103	Amended	May	856	
	III.1502	Adopted	June	1010		IX.4204	Amended	Nov.	2462	
	III.1503,1507,1511,1513	Amended	June	1010		XI.2407	Amended	May	856	
	III.2103	Amended	Mar.	446		XIII.2325,2927	Amended	May	856	
	III.2805-2813	Amended	Apr.	642		XIII.4204	Amended	Nov.	2462	
	III.5116,5122,5311,5901	Amended	Aug.	1619		XV.103,105	Amended	Nov.	2418	
	V.105	Amended	Mar.	449		43	XIII.Chapters 3-5,9-15,2103	Amended	Mar.	473
	V.106,199	Adopted	Mar.	449	XIII.2142		Adopted	Mar.	473	
	V.109,305, 323, 517, 2309, 3013	Amended	Aug.	1624	XIII.Chapters 27-33,51,61-63		Amended	Mar.	473	
	V.1107	Amended	Jan.	88	XIX.Chapter 3		Amended	Aug.	1653	
	V.1107	Repromulgated	Feb.	281	XIX.Chapter 6		Adopted	Apr.	660	
	V.3099	Amended	Apr.	640	XIX.701,703,707		Amended	Nov.	2461	
	V.3719,4339,4357,4501,4901	Amended	Aug.	1624	46		I.1315	Amended	Nov.	2418
	V.4999	Amended	Mar.	445			V.Chapters 27-36,44,47,48	Amended	Aug.	1632
	V.4999	Amended	May	824			V.2801, 4710	Adopted	Aug.	1632
	V.4999	Amended	June	1015			V.3301-3305	Repealed	Aug.	1632
	V.5136	Repealed	Jan.	88		V.3601	Repromulgated	Dec.	2651	
	V.5147	Adopted	Mar.	449		XIX.1105,1501,1901,1909,1911	Amended	Dec.	2634	
	V.11101,11103,11105	Adopted	May	859		XXI.601,603,605,607,609,611	Amended	Nov.	2419	
	V.Chapters 301-313	Amended	Mar.	466		XXI.613	Adopted	Nov.	2419	
	V.30588	Adopted	Mar.	466		XXI.1301	Amended	Nov.	2419	
	VII.Chapters 1,3,5,7,9,11,30	Amended	June	1017		XXXI.309, 321, 701	Amended	Aug.	1628	
	VII.105,313	Repealed	June	1017	XXXIII.120,306,505,706,1505	Amended	Dec.	2652		
	VII.109,110,114,505,520	Repromulgated	June	1017	XXXIII.322	Adopted	Dec.	2652		
	VII.112,117,401,403,405,407	Adopted	June	1017	XXXIII.306,415,419,706,710	Amended	May	846		
	VII.301	Amended	Nov.	2364	XXXIII.1506	Amended	May	846		
	VII.501,503,507,508,509,522	Adopted	June	1017	XXXIII.1506,1507,1709,1711	Amended	Dec.	2652		
	VII.801,803,805,1301,1303,1305	Adopted	June	1017	XXXIII.1703,1705,1713	Repealed	Dec.	2652		
	VII.901,903,905,907,1401,1403	Repromulgated	June	1017	XXXVII.1109	Adopted	Feb.	283		
	VII.1007,1009,3003,3013	Repealed	June	1017	XLI.531	Amended	Feb.	283		
	VII.1399,3009,3017	Adopted	June	1017	XLV.402,403,405	Amended	July	1343		
	VII.1405,1501,1503,1505,3011	Repromulgated	June	1017	XLV.412	Adopted	Jan.	91		
	VII.10401-10415	Amended	Dec.	2630	XLV.Chapter 74	Adopted	Aug.	1638		
	VII.10505,10519,10521,10533	Amended	Jan.	89	XLVII.901	Amended	Sept.	1869		
	IX.107, 2301,2313,7301,7303	Amended	Nov.	2364	XLVII.927, 929, 931, 933	Amended	Sept.	1868		
	IX.Chapter 11	Amended	May	826	XLVII.1705	Amended	Jan.	92		
	IX.1105,1109,1113	Amended	Mar.	455	XLVII.3328	Adopted	Mar.	460		
	IX.2301,4901,4903	Amended	Apr.	640	XLVII.3329	Amended	Mar.	460		
	IX.2315, 2501, 2707, 3113, 4735	Amended	Oct.	2069	XLVII.3515	Amended	June	1123		
	IX.2501, 2505, 2703	Amended	Nov.	2359	XLVII.4513	Amended	Sept.	1870		
	IX.4730, 4761-4779	Adopted	Oct.	2069	XLIX.503	Amended	Nov.	2423		
IX.7305, 7307, 7309, 7311, 7395	Amended	Nov.	2364	LIII.343,351,505,507,519,705	Amended	June	1124			
IX.7313	Adopted	Nov.	2364	LIII.361,514,523,707	Adopted	June	1124			
IX.7397, 7399	Amended	Nov.	2364	LIII.1101,1115,1135,1503,1505	Amended	June	1124			
XI.401, 403	Adopted	Sept.	1866	LIII.1117	Repealed	June	1124			
XV.102,361,399	Amended	June	1016	LIII.1139,1141,1525	Adopted	June	1124			
XV.322,399,607	Amended	Mar.	448	LIII.1707,1907,2307	Amended	June	1124			
XV.493	Adopted	Nov.	2361	LIII.2519,2523,2543,2549	Amended	June	1124			
XV.602,2017,2051	Amended	Nov.	2361	LIII.Chapter 29	Adopted	July	1345			
XV.1517	Amended	Apr.	640	LIII.3301	Repromulgated	July	1345			
34	I.1709	Adopted	Nov.	2421	LVII.517	Amended	Apr.	665		
	I.1709	Adopted	Dec.	2650	LX.503,705	Amended	Dec.	2654		
	III.131	Amended	Dec.	2649	LXI.707,2305,2307,2505,	Amended	Dec.	2788		
35	I.309	Amended	May	844	LXI.2701,2907	Amended	Dec.	2788		
	I.1733	Amended	May	845	LXIII.403	Amended	Mar.	458		
	I.1791	Amended	May	845	LXIII.Chapter 6	Adopted	Apr.	647		
	I.1720	Amended	May	845	LXIII.900	Adopted	Apr.	648		
	XI.9905	Amended	Nov.	2422	LXIII.901	Amended	Apr.	648		
37	XIII.11515,11517	Amended	Feb.	282	LXIII.Chapter 10	Adopted	Mar.	459		
	XIII.Chapter 87	Repealed	Dec.	2656	LXVII.2901	Amended	Nov.	2422		
	XIII.9511, 9519	Amended	Aug.	1661	LXVII.3900	Adopted	Nov.	2423		
	XIII.Chapter 101	Amended	Jan.	101	LXXV.103-109, 115-127	Amended	Oct.	2192		
	XIII.Chapter 115	Adopted	Aug.	1662	LXXV.129, 512	Adopted	Oct.	2192		
	XIII.Chapter 119	Adopted	Mar.	464	LXXV.131-135, 501, 701	Amended	Oct.	2192		
	XIII.Chapter 121	Adopted	Sept.	1872	LXXX.501	Adopted	Apr.	648		
	XIII.Chapter 123	Adopted	Dec.	2657	LXXXV.Chapter 4	Amended	Apr.	648		
	XIII.Chapter 125	Adopted	Nov.	2456	LXXXV.Chapter 4	Repromulgated	May	847		
	40	I.Chapters 55 and 57	Amended	Apr.	652	LXXXV.700, 701, 711	Amended	Nov.	2424	
I.5809-5813,5817-5819		Amended	Apr.	652	48	I.4001	Amended	Jan.	100	
I.5815,5824,5927		Adopted	Apr.	652		I.7701-7707,7721,7723,7729	Repromulgated	Nov.	2426	
I.5831,5835,5901,5905,5909		Amended	Apr.	652		I.7709-7713,7719,7731,7736	Amended	Nov.	2426	
I.5933,5955,5961,5963		Amended	Apr.	652		I.7715,7717,7725,7727,7775	Repealed	Nov.	2426	
I.6001-6007,6209-6211		Amended	Apr.	652		I.7720,7772	Adopted	Nov.	2426	
I.6009,6201		Repealed	Apr.	652		I.7733-7751,7755-7759,7763	Repromulgated	Nov.	2426	

LAC Title	Part.Section	Effect	Location LR 33 Month Page	LAC Title	Part.Section	Effect	Location LR 33 Month Page	
48	I.7753,7761,7771	Amended	Nov. 2426	61	I.4351	Amended	Sept. 1877	
	I.7765-7769, 7773, 7777-7785	Repromulgated	Nov. 2426		I.5302	Amended	May 860	
	I.8101,8104,8105,8111	Amended	Nov. 2432		III.1501	Adopted	Nov. 2463	
	I.8103,8107,8109,8119	Repealed	Nov. 2432		III.2115	Adopted	Jan. 111	
	I.8112,8130,8132	Adopted	Nov. 2432		V.101,307,309,703,901,907,1103	Amended	Mar. 489	
	I.8113,8115,8121,8125,8127,8129	Repromulgated	Nov. 2432		V.705	Adopted	Mar. 489	
	I.8123,8128,8131	Amended	Nov. 2432		V.1307,1503,2501,2503	Amended	Mar. 489	
	I.8133-8167	Repromulgated	Nov. 2432		V.2907	Repealed	Mar. 489	
	I.Chapter 92	Amended	Jan. 95		V.3101,3103,3105	Amended	Mar. 489	
	I.9469,9515	Amended	Feb. 284		V.3106,3107	Adopted	Mar. 489	
	I.9517-9521	Repealed	Feb. 284		V.Chapter 35	Amended	Mar. 489	
	I.9734	Adopted	July 1350		V.3701,3702	Adopted	Mar. 489	
	I.16101	Repromulgated	June 1135		67	I.Chapters 11-19	Repromulgated	Dec. 2669
	L.16103-16121	Amended	June 1135			I.1903	Adopted	Dec. 2667
	I.2915	Adopted	June 1139			III.401-409	Amended	Sept. 1878
	I.8341-8349	Adopted	Mar. 463			III.401-409	Repromulgated	Oct. 2203
	VII.1305	Amended	Oct. 2203			III.803	Repromulgated	Nov. 2467
	VII.1310	Adopted	Aug. 1646			III.901	Adopted	Sept. 1878
	VII.1312	Adopted	July 1349			III.1227, 1247, 5727	Amended	Aug. 1686
	VII.32901,32903	Amended	Mar. 461			III.2303	Amended	Mar. 508
	VII.32903	Amended	Oct. 2202	III.2512		Amended	Sept. 1879	
	IX.305	Adopted	Mar. 462	III.2523		Adopted	Mar. 508	
	XV.6901	Adopted	June 1138	III.2547		Adopted	Apr. 675	
	XV.6903	Amended	June 1138	III.5103,5107,5109		Amended	Mar. 506	
	XV.6905	Adopted	June 1138	III.5115-5123		Adopted	Dec. 2783	
	XV.7321	Amended	Oct. 2201	III.5509, 5589		Amended	Oct. 2205	
	XV.7321	Repromulgated	Nov. 2425	III.5581		Amended	Apr. 675	
	XV.7701,7703,7707	Amended	Apr. 651	III.5583		Amended	Oct. 2205	
	XXI.11301	Amended	Nov. 2440	III.5589		Adopted	Apr. 674	
	XXI.11303, 11527, 12101	Amended	Sept. 1871	III.5591		Adopted	Nov. 2468	
	XXI.13701, 13931, 13933, 13935	Repealed	Aug. 1647	III.5801-5805		Adopted	Apr. 674	
	XXI.13707	Amended	Nov. 2440	III.Chapter 73		Repromulgated	Dec. 2669	
	50	XXI.14301	Adopted	Aug. 1647	V.717	Adopted	Nov. 2464	
		XXI.16101-16109,16301-16337	Adopted	Nov. 2441	V.2301	Adopted	Aug. 1685	
		XXI.16501,16701,16901-16903	Adopted	Nov. 2441	VII.Chapter 11	Amended	June 1145	
		XXVII.571	Adopted	Mar. 462	70	I.1101	Adopted	Mar. 533
		XXIX.971,981	Repealed	Jan. 100		III.127,134,135,139,141,143	Amended	Mar. 530
		51	II.503,505	Amended		Jan. 93	IX.101	Amended
	III.101-111,303		Amended	Apr. 650		IX.301-317,501-599,601-705	Repealed	Mar. 510
	IX.305,323		Amended	May 849		IX.901-909,911-937,1101-1111	Amended	Mar. 510
XXIII.305,1307,1311	Amended		May 848	IX.911-917		Repealed	Mar. 510	
XXIII.501,505,1301	Amended		May 850	XVII.501,505,513,525-533	Adopted	July 1370		
XXIII.1901,1911,3505	Amended	May 848	XVII.503,507-511,515-523	Amended	July 1370			
55	V.103,303	Amended	Apr. 671	XVII.535-537,541-549,557-553	Amended	July 1370		
	V.519	Adopted	Apr. 645	XVII.539,551-555,561-565	Adopted	July 1370		
	V.Chapter 30	Amended	Aug. 1665	XVII.567,579	Amended	July 1370		
	V.3021, 3031	Adopted	Aug. 1665	72	I.Chapter 3	Adopted	Mar. 509	
	V.Chapter 50	Adopted	July 1350		I.Chapter 5	Adopted	Mar. 510	
	VI.Chapters 1-11	Adopted	Feb. 290		73	I.1201,1216	Amended	May 863
	VI.505	Adopted	Aug. 1683	76		I.312	Adopted	July 1396
	VI.703	Amended	Aug. 1683			III.335	Adopted	Mar. 538
	VI.705	Amended	Nov. 2462		III.335	Amended	Sept. 1882	
	VI.707,1301-1307	Adopted	Dec. 2666		V.115	Amended	June 1152	
	VI.905	Adopted	July 1369		V.123	Amended	Feb. 297	
	VII.324	Adopted	Aug. 1685		V.129	Adopted	Sept. 1882	
	VII.327	Adopted	Aug. 1684		V.321	Amended	June 1151	
	IX.Chapters 1 and 15	Amended	June 1139		V.323	Adopted	Aug. 1687	
	XXI.Chapters 1 and 3	Adopted	Apr. 645		V.701	Amended	Apr. 677	
56	III.901	Adopted	Mar. 535		V.701	Amended	Apr. 677	
	V.Chapters 1-11	Repromulgated	Dec. 2637		VII.137	Amended	May 865	
	58	I.301,501	Amended		June 1151	VII.329	Amended	May 864
I.111		Adopted	Nov. 2468		VII.335	Amended	June 1156	
I.1101,1103		Amended	Apr. 676		VII.335	Repromulgated	July 1397	
I.2301		Amended	Jan. 112		VII.367	Amended	Jan. 113	
I.2901		Amended	Nov. 2469	VII.505	Amended	July 1397		
I.3519		Repealed	Apr. 676	VII.517	Amended	Dec. 2791		
I.4131		Amended	June 1150	VII.521	Adopted	Feb. 297		
I.4501,4503		Adopted	Jan. 113	VII.1101	Adopted	Mar. 536		
III.101		Amended	June 1151	XI.103	Amended	Mar. 537		
V.1305		Amended	July 1343	XI.303	Adopted	Jan. 114		
61		I.1122	Amended	Feb. 295	XIX.101,103	Amended	July 1399	
		I.1140	Amended	May 860	XIX.103	Amended	Jan. 115	
	I.1401	Amended	May 861	XIX.111	Amended	July 1382		
	I.1903	Adopted	Dec. 2667	XIX.113,115	Amended	Nov. 2469		
	I.2903	Repromulgated	Sept. 1876	XIX.117	Repealed	Nov. 2469		

Potpourri

POTPOURRI

Department of Agriculture and Forestry Horticulture Commission

Landscape Architect Registration Exam

The next landscape architect registration examination will be given June 9-10, 2008, beginning at 7:45 a.m. at the College of Design Building, Louisiana State University Campus, Baton Rouge, LA. The deadline for sending the application and fee is as follows.

New Candidates:	February 22, 2008
Re-Take Candidates:	March 14, 2008
Reciprocity Candidates:	April 25, 2008

Further information pertaining to the examinations may be obtained from Craig Roussel, Director, Horticulture Commission, P.O. Box 3596, Baton Rouge, LA 70821-3596, phone (225) 952-8100.

Any individual requesting special accommodations due to a disability should notify the office prior to February 22, 2008. Questions may be directed to (225) 952-8100.

Bob Odom
Commissioner

0801#010

POTPOURRI

Office of the Governor Division of Administration Office of Group Benefits

Public Hearing—Substantive Change
PPO Plan of Benefits—Physician Assistants and Registered
Nurse Practitioners (LAC 32:III.301)

A Notice of Intent was published in the July 20, 2007, edition of the *Louisiana Register* (See LR Vol. 33, No. 07, pages 1533-1534), to revise and amend provisions of the PPO Plan of Benefits with respect to payment for services rendered by physician assistants and registered nurse practitioners to allow direct billing and to establish the maximum benefit amount. In response to that notice, the Office of Group Benefits (OGB) received written comments from representatives several professional associations on behalf of physician assistants and registered nurse practitioners. In light of those comments, OGB intends to retain that portion of the proposed Rule that permits, but does not require, direct billing by physician assistants and registered nurse practitioners. OGB also proposes to change the maximum benefit amount from 70 percent to 80 percent of the amount payable for the same service rendered by a physician.

Therefore, the following amendment is hereby made to the proposed Rule.

Title 32

EMPLOYEE BENEFITS

Part III. Preferred Provider Organization (PPO)

Plan of Benefits

Chapter 3. Medical Benefits

§301. Eligible Expenses

A. - A.26. ...

27. Services rendered by the following:

a. perfusionists and registered nurse assistants assisting in the operating room, when billed by the supervising physician;

b. physician assistants and registered nurse practitioners, provided that benefits will not exceed 80 percent of the amount payable for the same service rendered by a physician;

28. - 35.c. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:801(C) and 802(B)(1).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Group Benefits (formerly, the Board of Trustees, State Employees Group Benefits Program) LR 25:1830 (October 1999), amended LR 28:480 (March 2002), LR 29:339,343 (March 2003), LR 30:1192 (June 2004), LR 31:441 (February 2005), LR 32:1888, 1898 (October 2006), LR 34:

In accordance with R.S. 49:968(H)(2), a meeting for the purpose of receiving the presentation of oral comments will be held on February 27, 2008, at 10 a.m. in Conference Room 2 at Office of Group Benefits (in the Bon Carré Business Center), 7389 Florida Boulevard, Suite 400, Baton Rouge, LA.

Interested persons may submit written comments on the proposed changes to Tommy D. Teague, through the close of business (4:30 p.m. CST) on February 26, 2008, at P.O. Box 44036, Baton Rouge, LA 70804-4036.

Tommy D. Teague
Chief Executive Officer

0801#046

POTPOURRI

Department of Natural Resources Office of Conservation

Orphaned Oilfield Sites

Office of Conservation records indicate that the Oilfield Sites listed in the table below have met the requirements as set forth by Section 91 of Act 404, R.S. 30:80 et seq., and as such are being declared Orphaned Oilfield Sites.

Operator	Field	District	Well Name	Well Number	Serial Number
Big "D" Development Co.	Elm Grove	S	H J Tooke et al	1	104953

POTPOURRI

**Department of Natural Resources
Office of the Secretary
Fishermen's Gear Compensation Fund**

Loran Coordinates—Underwater Obstructions

In accordance with the provisions of R.S. 56:700.1 et seq., notice is given that 11 claims in the amount of \$38,587.25 were received for payment during the period December 1, 2007-December 31, 2007.

There were 11 claims paid and 0 claims denied.

Latitude/Longitude Coordinates of reported underwater obstructions are:

2906.999	9009.746	Lafourche
2910.967	9056.045	Terrebonne
2914.165	9001.579	Jefferson
2915.120	8937.202	Jefferson
2923.910	8943.700	Plaquemines
2927.405	8917.278	Terrebonne
2928.999	9007.242	Jefferson
2930.780	8954.640	Plaquemines
2936.527	8921.112	Plaquemines
2938.598	9005.397	Jefferson
8945.294	2953.321	St. Bernard

A list of claimants and amounts paid can be obtained from Gwendolyn Thomas, Administrator, Fishermen's Gear Compensation Fund, P.O. Box 44277, Baton Rouge, LA 70804 or you can call (225)342-0122.

Scott A. Angelle
Secretary

0801#027

Operator	Field	District	Well Name	Well Number	Serial Number
Natural-Feazel	Stella	L	State Lease 458	1	58821
Realco Oil & Gas, Inc.	Cheneyville	L	S Conrad Weil Jr etal	2	234494
Realco Oil & Gas, Inc.	Wildcat	L	H C Drew Estate	1	230458
Aladdin Oil Company, Inc.	Lafitte	L	Curol-Rojas	3	74252
Lyons Petroleum	Raceland	L	Gulf States	1	117828
The Palmer Corporation of La	Elm Grove	S	Bossier Land & L S Co	1	3624

James H. Welsh
Commissioner

0801#040

**CUMULATIVE INDEX
(Volume 34, Number 1)**

Pages	2008	Issue
1 – 212.....		January
EO—Executive Order PPM—Policy and Procedure Memoranda ER—Emergency Rule R—Rule N—Notice of Intent CR—Committee Report GR—Governor's Report L—Legislation P—Potpourri		

ADMINISTRATIVE CODE UPDATE

Cumulative

January 2007—December 2007, 205

AGRICULTURE AND FORESTRY

**Agriculture and Environmental Sciences, Office of
Seed Commission**

Seeds, 99N

Horticulture Commission

Landscape architect

Registration exam, 208P

CULTURE, RECREATION AND TOURISM

Cultural Development, Office of the

Cultural districts, 100N

EDUCATION

Elementary and Secondary Education, Board of

Bulletin 111, The Louisiana School, District, and

State Accountability System

Accountability, 104N

Bulletin 118, Statewide Assessment, Standards and

Practice, 65R

Bulletin 746, Louisiana Standards for State Certification
of School Personnel

Cooperative education, 106N

Bulletin 1794, State Textbook Adoption Policy and
Procedure Manual, 64R

ENVIRONMENTAL QUALITY

Secretary, Office of the

Legal Affairs Division

Evidentiary hearings on hazardous waste permit
applications, 68R

Permit applications, 107N

Regulation revisions, 69R

EXECUTIVE ORDERS

KBB 07-33 Bond Allocation—Industrial Development
Board of the Parish of Jefferson Davis, Louisiana, Inc.
1EO

KBB 07-34—2007 Carry-Forward Bond Allocation—
Louisiana Housing Finance Agency, 2EO

KBB 07-35—2007 Carry-Forward Bond Allocation—
Louisiana Public Facilities Authority, 2EO

KBB 07-36—2007 Carry-Forward Bond Allocation—
Louisiana Housing Finance Agency, 3EO

KBB 07-37—2007 Carry-Forward Bond Allocation—
Calcasieu Parish Public Trust Authority, 3EO

GOVERNOR

Administration, Division of

Group Benefits, Office of

EPO and PPO plan of benefits

Ambulance services, 108N

Durable medical equipment, 109N

Genetic testing, 110N

Medicare, 111N

PPO plan of benefits

Physician assistants and registered nurse
practitioners, 208P

Racing Commission

Equine veterinary practices, 5ER

Pick N, 12ER

Motor Vehicle Commission

Advertising, 74R

GOVERNOR'S REPORTS

Emergency Rule—Pain management clinics licensing
standards, 204GR, 204GR

HEALTH AND HOSPITALS

Emergency Response Network Board

Emergency Response Network, 118N

Medical Examiners, Board of

Athletic trainers, 113N

Optometry Examiners, Board of

Optometry regulations, 115N

Public Health, Office of

Diseases, Genetic

Neonatal screening, 13ER

Environmental Health, Center for

General provisions, 133N

Secretary, Office of the

Aging and Adult Services, Office of

Home/Community Based Services Waiver

Adult day health care, 39ER, 120N

Citizens with Developmental Disabilities, Office of

Home/Community Based Services Waivers

Supports waiver

Support coordination services, 40ER, 171N

Targeted case management, 40ER, 172N

Health Services Financing, Bureau of

Adult day health care

Minimum licensing standards, 151N

Disproportionate share hospital

Distinct part psychiatric unit expansions, 15ER

Federally qualified health centers

Reimbursement methodology

Adjunct services payment, 16ER

Home Health Services

Extended nursing services, 144N

Hospital(s)

Inpatient

Disproportionate share hospital, 17ER, 145N

Non-Rural/Non State

Distinct part psychiatric unit expansions, 22ER

Supplemental payments, 23ER

Medicaid eligibility

Family Opportunity Act Medicaid Program,
25ER

Pregnant women, termination of presumptive
eligibility, 168N

Presumptive eligibility for children, 26ER

Spousal impoverishment, 29ER

SSI related resources, 27ER

Transfers of assets, 30ER

Mental Health Rehabilitation Program

Moratorium on mental health rehabilitation
providers, 168N

Nursing Facilities

Minimum licensing standards

Emergency preparedness, 32ER

Pain management clinics, 35ER, 80R

Pharmacy Benefits Management Program

Dispensing fee, 87R

Primary Care and Rural Health, Bureau of

Rural hospitals, primary service areas, 89R

Professional Services Program

Adult immunizations, 36ER

Physician services

Adjunct services payment, 37ER

Reimbursement methodology, 37ER

Rural health clinics reimbursement

Adjunct services payment, 38ER

Statewide human service framework, 136N

Third party liability

Provider billing and trauma recovery, 169N

INSURANCE

Commissioner, Office of the

Premium adjustments for compliance with building
codes and damage mitigation/Reg 94, 90R

Public Fire Protection Grading Review Board

Regulation 95, 174N

NATURAL RESOURCES

Conservation, Office of

Orphaned oilfield sites, 208P

Secretary, Office of the

Fisherman's Gear Compensation Fund

Loran coordinates, 209P

Land conservation organizations certification, 177N

PUBLIC SAFETY AND CORRECTIONS

Management and Finance, Office of

Louisiana State Uniform Construction Code, 93R

State Police, Office of

User fees, 94R

State Uniform Construction Code Council

Uniform Construction Code, 41ER, 42ER

REVENUE

Policy Services Division

Payment of taxes by credit/debit cards, 43ER, 185N

Tax Commission

Ad valorem taxation, 45ER

SOCIAL SERVICES

Community Services, Office of

Refugee Resettlement Program, 186N

Family Support, Office of

Child Care Assistance Program (CCAP)

Louisiana pathways, 95R

Provider registration/certification, 187N

Sliding fee scale, 187N

Food Stamp Program, 54ER

TANF initiatives, 55ER

GED Testing Program, 60ER

Language clarifications, 189N

Nurse Family Partnership Program, 61ER

TREASURY

Louisiana State Employees' Retirement System

ORP-election to participate, 97R

Rollover of refunds, 97R

WILDLIFE AND FISHERIES

Wildlife and Fisheries Commission

Abandoned crab traps, removal, 97R

Emergency cut-off switches, 195N

Flotation devices, 196N

Gill net and grass carp prohibitions, 197N

King mackerel, 62ER

Marine event permits, 198N

Reef fish, 62ER

Shark, large coastal, 63ER

Vessel monitoring system, 199N